

MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
CENTRAL VALLEY AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 14, 2003
9:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Jose Medina, Vice Chairperson

Steven R. Jones

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Kathryn Tobias, Chief Counsel

Terry Jordan, Deputy Director

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Rubia Packard, Assistant Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Bob Fujii

Martha Gildart

Jim La Tanner

Steve Levine, Staff Counsel

Diane Nordstrom

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

ALSO PRESENT

Mark Murray, Californians Against Waste

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX

PAGE

Special Waste

10. Consideration Of Contractor For The Engineering And Environmental Services Contract (Tire Recycling Management Fund, FY 2002/03) -- (Budget & Administration Committee Item E And Committee Item C)	4
Motion	5
Vote	5
11. Consideration Of Contractor For The Technology Evaluation And Economic Analysis Of Waste Tire Pyrolysis, Gasification And Liquefaction Contract (Tire Recycling Management Fund, FY 2002/2003) -- (Budget & Administration Committee Item F And Committee Item D)	6
Motion	6
Vote	7
12. Consideration Of The Grant Awards For The Energy Recovery From Tires Grant Program For FY 2002/2003 -- (Budget & Administration Committee Item G And Committee Item E)	7
Motion	7
Vote	8
13. Consideration Of The Grant Awards For The Local Government Waste Tire Cleanup Grant Program For FY 2002/2003 -- (Budget & Administration Committee Item H And Committee Item G)	27
Motion	35
Vote	44
15. Consideration Of Concepts To Be Funded From The Reallocation Of Unused FY 2002/2003 Waste Tire Recycling Management Program Funds -- (Budget & Administration Committee Item I And Committee Item I)	46
Motion	67
Vote	69
16. Consideration Of The Adoption Of The Revised Five-Year Plan For The Waste Tire Recycling Management Program (2nd Edition Covering FY 2003/04-2007/08)	70
Motion	88
Vote	101

INDEX CONTINUED

	PAGE
Waste Prevention and Market Development	
17. Consideration of the Recycling Market Development Revolving Loan Program Application for Plastic Energy - Hanford ,LLC -- (Budget & Administration Committee Item 7 And Committee Item K)	104
Motion	106
Vote	106
Diversion, Planning and Local Assistance	
26. Consideration of the Grant Awards For The Unified Education Strategy Grant Program For Cycle One FY 2002/2003 And FY 2003/2004 And FOr Cycle Two FY 2002/2003 And FY 2003/2004 -- (Budget & Administration Committee Item K and Committee Item H)	106
Motion	107
Vote	107
Other	
29. Consideration of Enforcement and Cost Recovery Issues for the Waste Tire Cleanup Grant Program -- (Special Waste & Market Development Committee Item F)	8
Motion	26
Vote	27
30. Discussion Of Construction And Demolition Regulations As Related To Other Tiered Permitting Regulations	107
Public Comment	119
Adjournment	119
Reporter's Certificate	120

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRPERSON MOULTON-PATTERSON: Good morning and welcome back to our May meeting of the California Integrated Waste Management Board.

The roll was left open on item -- oh, we better do ex partes. I'm getting ahead of myself. Sorry.

Mr. Jones.

BOARD MEMBER JONES: I actually think I'm up to date.

CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

BOARD MEMBER JONES: Madam Chair. I did -- on the ex parte, I saw a letter from Californians Against Waste and the Sierra Club on the tire allocation issue and then a letter from Compton Community College that I think we all got.

Thanks.

CHAIRPERSON MOULTON-PATTERSON: Okay. So you will ex parte for everyone. Because I didn't have a chance to ex parte the letter from Mark Murray, Californians Against Waste, and Bill McGavern, Sierra Club, talking about -- they're concerned with back-end cleanup and tire burning technologies as a waste management strategy and our positions on it.

So that has been ex parte'd.

BOARD MEMBER PEACE: Okay. As long as -- I had

1 the same letters Steve did. Other than that, I don't have
2 any to report.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. I'm up to
4 date.

5 Mr. Medina.

6 VICE CHAIRPERSON MEDINA: Yeah, same letter from
7 Compton Community College. A letter from Karen Graboza in
8 regard to Agenda Item Number 29.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Yeah, I spoke briefly
12 with John Cupps and also with Val Siebal of the Office of
13 Environmental Health Hazard Assessment.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
15 Mr. Washington.

16 BOARD MEMBER WASHINGTON: I'm up to date.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 And yesterday the Board heard Item 7, the
19 Sunshine Canyon item, and they left the roll open for
20 myself.

21 Before you call the roll I did -- many of my
22 questions were answered, and thank you for asking those
23 questions. Ms. Bruce briefed me on it.

24 But I did have one question for Ms. Tobias. You
25 know, the regional water board hasn't heard the permit

1 yet. And they'll here it in June, that's my information.

2 Why are we the last -- why are we not the last
3 permit issued? You know, it seems like there's unanswered
4 questions, and this has happened several times.

5 CHIEF COUNSEL TOBIAS: Prior to 1220 we were the
6 last issue. We had our regs set up so that it required
7 that all the permit issuances be taken care of before you
8 got to the Board. After 1220 which basically said
9 everybody is responsible for their own area, it was --
10 basically we were not able to have our regs stand that
11 way.

12 It actually stems from an even earlier time, in
13 1978 with the Permit Streamlining Act, which tried to have
14 some sense made out of the permitting process. At that
15 time, as we do now, they actually had a lot of the permits
16 being granted at different times. So you could actually
17 come out with a permit strategy. If you were an
18 industrial developer you could try to get your air permits
19 first or your discharge permits or whatever you wanted to
20 do.

21 So it's actually -- it's a pendulum swing. It's
22 gone back and forth with the state agency permits over the
23 years. And so we would have to get a statutory change at
24 this point to be able to act last.

25 CHAIRPERSON MOULTON-PATTERSON: Who was the

1 author of 1220? Does anybody remember? Anyway, I can
2 find that out.

3 I would certainly feel more comfortable if it was
4 the other way around.

5 CHIEF COUNSEL TOBIAS: Oh, Howard's saying
6 Easton.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

8 Okay. Then please record my vote on Sunshine
9 Canyon, Item 7, as a "yes" vote.

10 Now, that takes us to -- we left off yesterday,
11 we were in the special waste area. Mr. Medina had given
12 his report. And we did Number 9.

13 Is that right, Mr Lee?

14 DEPUTY DIRECTOR LEE: That is correct.

15 CHAIRPERSON MOULTON-PATTERSON: When we get to
16 it, I will again express my deep appreciation to Mr.
17 Medina and the Special Waste Committee, because I know
18 hours and days have been spent on the five-year plan, and
19 I really appreciate all your work on that. Thank you.

20 So we'll go on with Number 10.

21 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

22 Good morning, Board members. My name is Jim Lee
23 with the Special Waste Division.

24 Board Item 10 is consideration of the contractor
25 for the Engineering and Environmental Services Contract

1 (Tire Recycling Management Fund, Fiscal Year 2002-2003).

2 Staff proposes that Dana Humphrey be approved as
3 the contractor for this contract in the amount of
4 \$500,000.

5 This item was heard by the Special Waste and
6 Market Development Committee and the Budget and
7 Administration Committees and recommended for consent.

8 Staff recommends that the Board approve
9 Resolution 2003-277.

10 VICE CHAIRPERSON MEMBER MEDINA: Madam Chair, I'd
11 like to move this resolution.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.

13 We have a motion by Mr. Medina.

14 BOARD MEMBER JONES: Second.

15 CHAIRPERSON MOULTON-PATTERSON: Seconded by Mr.
16 Jones, to approve Resolution 2003-277.

17 Please call the roll.

18 SECRETARY WADDELL: Jones?

19 BOARD MEMBER JONES: Aye.

20 SECRETARY WADDELL: Medina?

21 VICE CHAIRPERSON MEDINA: Aye.

22 SECRETARY WADDELL: Paparian?

23 BOARD MEMBER PAPARIAN: Aye.

24 SECRETARY WADDELL: Peace?

25 BOARD MEMBER PEACE: Aye.

1 SECRETARY WADDELL: Washington?

2 BOARD MEMBER WASHINGTON: Aye.

3 SECRETARY WADDELL: Moulton-Patterson?

4 CHAIRPERSON MOULTON-PATTERSON: Aye.

5 Number 11.

6 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

7 Board Item 11 is consideration of contractor for
8 the Technology Evaluation and Economic Analysis of Waste
9 Tire Pyrolysis, Gasification, and Liquefaction Contract
10 (Tire Recycling Management Fund, Fiscal Year 2002-2003).

11 Staff proposes that the University of California
12 Riverside be approved as the contractor for this contract
13 in the amount of \$135,100.

14 This item --

15 VICE CHAIRPERSON MEDINA: Madam Chair, I'd like
16 to move this resolution, Resolution 2003-279 revised,
17 consideration of contractor for the Technology Evaluation
18 and Economic Analysis of Waste Tire Pyrolysis,
19 Gasification, and Liquefaction Contract, Tire Recycling
20 Fund, Fiscal Year 2002-2003, approving the University of
21 California at Riverside Center for Environmental Research
22 and Technology as the contractor, in the amount of
23 \$135,100.

24 BOARD MEMBER JONES: Second.

25 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by

1 Mr. Medina, seconded by Mr. Jones to approve Resolution
2 2003-279.

3 Without objection please substitute the previous
4 roll call.

5 Item Number 12.

6 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

7 Board Item 12 is consideration of the grant
8 awards for the Energy Recovery from Tires Grant Program
9 for Fiscal Year 2002-2003. Staff propose that three
10 grantees identified in the agenda item and resolution be
11 approved for grant award in the amount of \$97,466.

12 The resolution was revised pursuant to discussion
13 of the Special Waste Committee to include language to
14 clarify grantee's responsibility, to prepare reports on
15 their project results, and submit the same for independent
16 third-party peer review. The revised resolution was
17 recommended for consent by the Special Waste and Market
18 Development and Budget and Administration Committees.

19 The staff recommends that the Board approve
20 resolution 2003-280.

21 VICE CHAIRPERSON MEDINA: Madam Chair, I'd like
22 to move Resolution 2003-280 revised, consideration of the
23 Grant Awards for the Energy Recovery from Tires Grant
24 Program for Fiscal Year 2002-2003, with the special "now
25 therefore be it resolved" clause included.

1 BOARD MEMBER JONES: I'll second.

2 CHAIRPERSON MOULTON-PATTERSON: Without objection
3 please substitute the previous roll call.

4 That takes us -- I believe we have to -- we need
5 to hear Item 29 before 13; is that correct?

6 DEPUTY DIRECTOR LEE: That is correct, Madam
7 Chair.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. And Mr.
9 Levine will be presenting this.

10 This is consideration of enforcement and cost
11 recovery issues for the Waste Tire Cleanup Grant Program.

12 (Thereupon an overhead presentation was
13 Presented as follows.)

14 STAFF COUNSEL LEVINE: Thank you, Madam Chair,
15 Board members.

16 We would like to preface this item by providing a
17 brief chronology of events that led to bringing this item
18 forward, and also to advise of certain revisions made to
19 the resolution to clarify issues that were raised at the
20 Special Waste Committee on this item.

21 The genesis of this item arose late last year
22 during preparation of the Board's Notice Of Funds
23 Available, or NOFA, for the Waste Tire Cleanup Program --
24 the Grant Program.

25 Staff had previously received questions about

1 enforcement and cost recovery implications on grants to
2 clean up privately owned sites and desire to address the
3 issue. Given that the Board generally pursues enforcement
4 and cost recovery, we felt it advisable to broach this
5 issue directly with the Board so that it could make an
6 informed and advised decision as to whether the factors
7 addressed in this item warranted a different approach in
8 certain cases.

9 We would like to emphasize that this item does
10 not portend to be an all encompassing recitation of the
11 myriad of enforcement and cost recovery issues that may be
12 brought before the Board. To the contrary, this item on
13 its face is limited to the narrow issues staff has
14 accounted in this grant program relating to cleanups at
15 small private sites in remote areas, and how to resolve
16 those issues in a matter which promotes the primary
17 purpose of the tire program, timely removal of improperly
18 stored tires.

19 In that spirit staff has revised the proposed
20 resolution, which you have been provided, and there are
21 copies in the back as well. And this is addressed in the
22 underscored section on page 2 of the resolution.

23 --o0o--

24 STAFF COUNSEL LEVINE: Okay. Now to go on, I'd
25 like to start my presentation by citing our cost recovery

1 statute so we can put this item in the proper context.

2 Cost recovery at waste tire cleanups is addressed
3 in the Public Resources Code as follows, and I quote:
4 "The Board shall seek recovery of its costs if that
5 recovery is feasible. While enforcement and cost recovery
6 are generally pursued, program staff for the Waste Tire
7 Cleanup Grant Program have advised that in certain cases
8 specific to their grant program enforcement and cost
9 recovery may not be feasible, in that their pursuit may
10 impede the Board from its primary goal of cleaning up
11 tires."

12 --o0o--

13 STAFF COUNSEL LEVINE: Now, before we get into
14 the difficulties encountered by the grant program, I'd
15 like to just briefly go over our enforcement and cost
16 recovery process, which is generally pursued to compel the
17 owners of unpermitted sites to remediate.

18 The Board first seeks penalties through the
19 Office of Administrative Hearings. The threat of
20 administrative civil penalties results in the majority of
21 sites being cleaned up by the property owners. Where the
22 owner fails to clean up the site and the Board expend
23 funds to remediate, cost recovery is pursued, which
24 usually results in a lien against the property, where at
25 the time of the property sale proceeds are disbursed

1 towards the Board's remediation costs.

2 Enforcement has been pursued both against owners
3 who were directly responsible for bringing the waste tires
4 on site, as well as those owners who were not directly
5 responsible for their tire stockpile but are nevertheless
6 strictly liable as the property owners.

7 --o0o--

8 STAFF COUNSEL LEVINE: Now, in order to
9 understand why grant program staff believes this process
10 is not feasible in certain situations under their program,
11 let me go into a bit about the purpose and scope of the
12 grant program.

13 The grant program acts in conjunction with the
14 Waste Board's cleanup program where the Board directly
15 expends funds for contractors for remediations. The
16 Board's cleanup program focuses on the cleanup of
17 privately owned sites which the property owner failed to
18 remediate. The grant program provides an incentive for
19 the local agency to clean up those sites which are not
20 typically the subject of Board cleanups.

21 Now, a substantial portion of the grant funding
22 is awarded to local agencies to abate illegal tire
23 disposal sites that are located alongside roads and other
24 public rights-of-way across the state, including the
25 cleanup of an incidental number of tires which spill over

1 from the rights-of-way onto neighboring private parcels.

2 In addition to the above, occasionally the grant
3 program is utilized to achieve timely remediation of tire
4 piles located wholly on private parcels, such as in the
5 case where the Board cleanup program is not a feasible
6 vehicle for remediation.

7 Now, for example, the grant program serves the
8 purpose of securing local agency involvement with managing
9 remediations at smaller sites, where the mobilization of
10 Board contractors to remote areas under the cleanup
11 program is impractical and/or unfeasible.

12 Historically, the Board cleanup program has found
13 that sites under 5,000 waste tires to be cost prohibitive
14 and thus has not remediated such sites except where such a
15 site could be consolidated with other sites in the
16 immediate vicinity.

17 The difficulty involves economies of scale, since
18 the remediation cost per waste tire is markedly higher
19 when fewer tires are involved. And the travel,
20 accommodation, and other oversight expenses of the Board's
21 general contractor in remediating remote sites is also an
22 issue.

23 This is why the Waste Tire Cleanup Grant Program
24 encourages the local agencies to apply for grants to clean
25 up these piles under 5,000 waste tires.

--o0o--

STAFF COUNSEL LEVINE: Now we get into the problem before us today.

Staff has found that local agencies are more reluctant to participate in the grant program if in addition to managing the remediation, enforcement issues protract the process and make access more difficult, particularly where the property owner is not directly responsible. The concern is that in these cases enforcers may actually hinder a timely remediation in that 1) the Board is not cleaning up the site because it is cost prohibitive and the site is not such a substantial health and safety threat as would warrant overriding cost concerns and 2) the local agency is not cleaning up the site with grant funds because they do not want to become mired in an adversarial proceeding between the property owner and the Board.

--o0o--

STAFF COUNSEL LEVINE: These concerns can be alleviated by forgoing enforcement and cost recovery at privately owned sites under the Tire Cleanup Grant Program as specified below and on your slide. And I quote from the resolution: "For all cases, the private property owners must have signed a declaration under penalty of perjury that they did not personally bring the tires on

1 site, did not profit from the placement of tires on site,
2 nor did they direct, authorize, license, permit, lease,
3 legally or illegally, or otherwise provide consent to
4 another to bring the tires on site. In cases where such a
5 declaration has been obtained, enforcement and cost
6 recovery need not be pursued under the following
7 circumstances:

8 --o0o--

9 STAFF COUNSEL LEVINE: "1) The private site is
10 located in a remote area and has less than 5,000 waste
11 tires on site and thus mobilization of Board contractors
12 to the site under a Board-managed remediation would be
13 impractical or unfeasible;

14 "2) The private site is located in a rural area,
15 with potentially overlapping multiple property owners,
16 with no discernible or otherwise readily ascertainable
17 property boundaries, making it difficult to determine the
18 specific liability of each owner; and/or

19 "3)" -- so any one of these three along with the
20 declaration could warrant this policy -- "Where the
21 private site proposed to be remediated is incidental to a
22 primary project involving the cleanup of illegal tire
23 disposal sites located alongside roads and other public
24 right-of-ways." In other words, the waste tires on the
25 private sites constitute spillover from the right-of-way.

1 By forgoing enforcement under these limited
2 circumstances, the Board will facilitate not only the Tire
3 Grant Cleanup Program's ongoing efforts to attract more
4 grantees to this undersubscribed program, but also the
5 Board's obtainment of its primary goal, the timely
6 remediation of waste tires posing a threat to public
7 health, safety, and environment.

8 This concludes my presentation.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
10 Levine.

11 Questions?

12 Mr. Jones.

13 BOARD MEMBER JONES: Madam Chair, thank you.

14 And, Mr. Levine, thank you.

15 A lot of the concerns that I had -- this is an
16 important program, and it makes sense for staff to be able
17 to do these things. My concern was the wording. I didn't
18 want this to be an all inclusive policy for this Board
19 because I think that it would have tied our hands.

20 I do have one question. On the revised
21 resolution -- and it may not be that important -- but on
22 the third line, can we change that last "the" to "this?"
23 It says that, you know, "Cost recovery set forth above are
24 provided in an attempt to resolve specific issues related
25 in the item only;" meaning "this item only," correct?

1 STAFF COUNSEL LEVINE: Yes, that's correct.

2 BOARD MEMBER JONES: Could we just change that to
3 "this" so that it's very clear that it's just this
4 program?

5 STAFF COUNSEL LEVINE: Absolutely.

6 BOARD MEMBER JONES: Okay. Madam Chair -- well,
7 there may be other questions.

8 CHAIRPERSON MOULTON-PATTERSON: I see none, Mr.
9 Jones.

10 BOARD MEMBER JONES: Madam Chair, with that
11 change and with the revisions, I'd like to move adoption
12 of Resolution 2003-306, Revision 2 --

13 BOARD MEMBER WASHINGTON: I'm sorry. Before you
14 make the motion, can I ask a question, Madam Chair?

15 CHAIRPERSON MOULTON-PATTERSON: Sure.

16 BOARD MEMBER WASHINGTON: Steve, under this code
17 you just read to us, where did the word "legacy" derive
18 from?

19 STAFF COUNSEL LEVINE: I am not familiar with the
20 term "legacy" in any actual statute. I believe the term
21 "legacy" may be present in a letter of legislative intent
22 in a different program, but I'm not familiar with the word
23 in statute.

24 BOARD MEMBER WASHINGTON: Thank you.

25 CHIEF COUNSEL TOBIAS: I'm not familiar with it

1 in our regs either. But what we did use it for
2 originally, Mr. Washington, was to designate some of the
3 really large tires that we had. When we started the
4 program -- I think the legislation was passed in 1995.
5 And as we started working with it in '96 and '97, we
6 realized that what we had were some tire piles that had
7 been growing for quite a number of years, 20 years, 30
8 years.

9 And so -- we also had much smaller piles around
10 the state. And we were trying to come to grips with those
11 piles that could not or would not be permitted, that the
12 owners had never really -- they really had just been
13 storage, and they weren't going to get a major or minor
14 tire facility permit.

15 So I don't remember where the term came from, but
16 originally it was really only used for the Royster site,
17 the Filbin site -- I don't know if Bob Fujii -- were there
18 any other sites that we had in there?

19 MR. FUJII: Bob Fujii, Special Waste Division.

20 There may have been some tire sites in the early
21 days that were cleaned up on the 2136 that may have all
22 fallen in that classification of legacy tire piles Chop
23 Arena is one that comes to mind.

24 But as Legal mentioned, it isn't a term that's in
25 statute. It's just one of those terms that's been coined

1 to suggest that these are tire piles that have been there
2 a long time.

3 BOARD MEMBER WASHINGTON: Okay.

4 CHIEF COUNSEL TOBIAS: And I think at this point
5 we really -- it may creep in at times, but I'm not aware
6 that we're -- and I guess I'd also -- you know, Martha may
7 have some last words on the subject. But I don't think
8 we're really currently using that intentionally, because
9 most of the tire piles have been cleaned up and are
10 more -- much more recent piles.

11 So I think even a large pile that would occur now
12 that was perhaps found by a CHP flyover, even if it had
13 existed for a long time, would not be one of the legacy
14 piles that we had talked about early on.

15 Martha, do you want to add anything?

16 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

17 I also think it was used to distinguish between
18 an ongoing business operation that maintains a pile of
19 tires as a stockpile for a feed stock. The legacy piles
20 were more intended to refer to piles that were just
21 sitting there, maybe growing as illegal dumping occurred,
22 and that this was an ongoing problem the Board had to
23 address. But once it was taken care of, that pile was
24 cleaned up and gone, it should be permanently gone.
25 Unlike what we now work with mostly are the operations,

1 take-in tires, recycle them, and make a new product. Our
2 permits are directed at that kind of storage.

3 BOARD MEMBER WASHINGTON: Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
5 Mr. Medina.

6 VICE CHAIRPERSON MEDINA: Yes, I had a question
7 in regard to the declaration or penalty of perjury. It
8 seems like that's a very strict standard when you read
9 through it. "The private property owners must have signed
10 a declaration under penalty of perjury that they did not
11 personally bring the tires on site, did not profit from
12 the placement of tires on site, nor did they direct,
13 authorize, license, permit, lease, legally or illegally,
14 or otherwise provide consent to another to bring the tires
15 on site."

16 Is that all inclusive? Do they have to meet all
17 of those conditions contained in that statement?

18 CHIEF COUNSEL TOBIAS: It does because this
19 statute is a strict liability statute. It's very unusual.
20 Actually -- it's unusual for us. We don't have anything
21 else that works exactly like a strict liability situation.
22 And actually you don't find all that many in the state.

23 So what it means is that you can't have -- what
24 we're looking for is that people were not involved in any
25 way bringing these tires on. So we don't want them to

1 have profited in some way by leasing or telling somebody
2 they could store the site -- the tires on their site for a
3 short period of time. So we are trying to cover every
4 action that they might have taken.

5 So that we use penalty of perjury on most of our
6 affidavits where they should know that there is a sanction
7 if they're not telling the truth.

8 VICE CHAIRPERSON MEDINA: Yes. On some of these,
9 for example, "or otherwise provide consent to another to
10 bring the tires on site." How strict are we in regards to
11 the property owner having met all of those?

12 CHIEF COUNSEL TOBIAS: Very strict. All of the
13 program -- all of the tire programs -- I think what we're
14 trying to do in this one is make a distinction -- again,
15 we have a strict liability statute. We don't care how the
16 tires get on there. So to a certain extent in the rest of
17 the program we don't care how the tires get there.

18 In this case what's happening is that in a few
19 very limited circumstances property owners are going to
20 get tires picked up off their property, which is not the
21 same as what we would normally do.

22 So in this case we want to make sure that no one
23 profits by having taken money or having in any way
24 encouraged or allowed those tires to come on to the
25 property. And that's why we're trying to be so strict

1 with it.

2 Does that answer your question?

3 VICE CHAIRPERSON MEDINA: And if the property
4 owners are not willing to sign a declaration under penalty
5 of perjury, then they do not -- they're not eligible for
6 these grants?

7 CHIEF COUNSEL TOBIAS: Correct.

8 VICE CHAIRPERSON MEDINA: Or for this assistance?

9 CHIEF COUNSEL TOBIAS: That's right.

10 VICE CHAIRPERSON MEDINA: Okay. Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.

12 Okay. We'll go back to Mr. Jones, who was making
13 the motion.

14 BOARD MEMBER JONES: Madam Chair, I am going to
15 make the motion. I just -- something that Kathryn just
16 said I would like to just ask one more question.

17 CHAIRPERSON MOULTON-PATTERSON: Okay.

18 BOARD MEMBER JONES: That the statute that you're
19 relying on, that is, the strict liability, what's that
20 number? I mean what are we -- or could you read us --
21 because I thought it said we may.

22 CHIEF COUNSEL TOBIAS: Steve, if you want to go
23 back to that --

24 STAFF COUNSEL LEVINE: Cost recovery is to the
25 extent feasible, as we've said in the statute. There are

1 a couple of different statutes that make clear that if you
2 have -- by definition if you have 500 or more tires on
3 your property, you are -- no matter how they got there,
4 you are operating a waste tire facility and you don't have
5 a permit.

6 BOARD MEMBER JONES: Right.

7 STAFF COUNSEL LEVINE: And you as the present
8 owner of that property, being part of the owner-operator
9 combination, have liability. And it's very unfortunate.
10 In certain cases people inherit properties. And I've
11 dealt with enforcement in these cases where a woman has
12 inherited a property with 5,000 tires on it, we had to
13 say, "I know you didn't put it there. I know you had
14 nothing to do with it. But every day you're there, you're
15 basically the owner and the operator, because there's
16 nobody else, of this site that has more than 500 tires."

17 And I also -- I'd be happy to show you we have a
18 background talking about how in the environmental arena
19 there has been a trend toward going away from nuisance,
20 per se -- saying that something, you know, is a nuisance,
21 per se, or having to go to court to show a nuisance, to
22 having the environmental statutes, the Legislature say,
23 "We're just going to do it directly. Five hundred or more
24 tires, you have to clean them up." And I can show you how
25 this fits in with other similar statutes that do the same

1 type of thing.

2 And what we're trying to say here is that, to the
3 extent the owner was not at all involved, to make this
4 grant program work, to get these tires removed that
5 otherwise may just sit there, we're going to -- if they
6 can declare that they weren't involved, we're going to
7 forgo that whole process and just get the site cleaned up.
8 If they were in some way involved, there are still a lot
9 of options. Yes, there will be probably a cleanup and
10 abatement order telling them they are responsible. But at
11 some point the grant program can still award a grant to
12 the county to clean it up. It's just we are pursuing
13 enforcement against the property owner. Or the Board may
14 in that case clean up the site.

15 So grant program and other, it's just that the
16 counties and cities have been reluctant to go up to
17 property owners and say, "They're going to start an
18 enforcement process, but we want to clean up your site."
19 They'd rather say, "Here's a circumstance we can just go
20 directly to it and not get protracted in that process."

21 So I hope that brings clarity.

22 CHIEF COUNSEL TOBIAS: So to summarize, I think
23 what we're saying is the statute's a strict liability
24 statute. It means if you have tires on your property, you
25 are the one held responsible. It also says in 42847,

1 which, just to take you back to where Steve started, it
2 says, "The Board shall seek recovery of its costs if that
3 recovery is feasible."

4 So what we've tried to outline is some
5 circumstances, very limited circumstances, in which so far
6 it's really not feasible to pursue cost recovery against
7 property owners where either the tires have spilled over
8 from dumping on public right-of-ways, where there's under
9 5,000 tires and it's not cost effective to pick those up,
10 or whatever the third circumstance. So even though we
11 have a strict liability statute, this agenda item's based
12 on if recovery is feasible -- if cost recovery is
13 feasible.

14 BOARD MEMBER JONES: And it's that piece that
15 runs through all of our programs, and it's that statute
16 that governs --

17 CHIEF COUNSEL TOBIAS: This particular one is in
18 the tire statute. I think --

19 BOARD MEMBER JONES: Understood. What I'm
20 getting at is that the Westley -- the Filbin site there
21 was a threat. The Board had a notice and order on that
22 thing. But we went ahead and spent a million six or a
23 million four of our money to clean up tires for health and
24 safety and didn't go after cost recovery on that because
25 there was an advantage to the citizens of California and

1 we made them kick in dollars and we took advantage of a
2 lower rate which, you know, could be part of that. But
3 that was the action that we took because of the benefit.
4 And I just wanted to make sure that nothing's changing.

5 CHIEF COUNSEL TOBIAS: Well -- and I guess I
6 could certainly get you some more detailed information on
7 the Westley one. My recollection is that -- and again
8 that kind of gets back to Mr. Washington's issue of legacy
9 tires, is that the Filbin and Royster sites were legacy
10 sites. We'd actually had Filbin under enforcement for a
11 number of years but Mr. Filbin had basically gone through
12 a, as I recall -- and this is really digging this up-- we
13 had had a situation where he had had his use permits from
14 the county and had basically fought us on the Board's
15 jurisdiction over requiring him to get a permit for his
16 property because he was saying that he was already
17 permitted.

18 So with both the Filbin and the Royster sites
19 we've had ongoing litigation with those sites. We have
20 recovered against Mr. Filbin, although I don't at the
21 moment remember exactly whether it was in a penalty phase,
22 a cost-recovery phase, or a pursuit against the insurance.
23 So it's hard to -- I guess in my mind I always see the
24 Royster and Filbin sites as slightly different just
25 because of the way the circumstances came out, the fact

1 that they were -- we were already dealing with them as the
2 legislation came in.

3 So, you know, I think the Board does have the
4 ability to deal with the "if feasible" language.

5 BOARD MEMBER JONES: I mean the language -- the
6 action we took when we did that tire burndown was with
7 mark Kirkland, who had the responsibility of that site at
8 that time. So it was, you know -- I mean there were a
9 number of parties involved.

10 Anyway it was that --

11 CHIEF COUNSEL TOBIAS: Although we do have an
12 action against Mr. Filbin.

13 BOARD MEMBER JONES: We have actions against them
14 all. But what I'm saying is that it was under that
15 circumstance. So I just want to make sure, because my
16 concern -- and I think it's alleviated -- but that there
17 were some issues I want to make sure we've got on the
18 record. My concerns were I want to see our tire staff be
19 able to do this with local grants; and they need this
20 language, so I'm going to go for it because it's very
21 specific to this program only. And that it is not a
22 policy that governs all of the rest of our Board tire
23 programs. And that's as I understand it.

24 And based on that I'll move, Madam Chair,
25 adoption of Resolution 2003-306 Revision 2, consideration

1 of enforcement and cost recovery issues for Waste Tire
2 Cleanup Grant Program, and then with that one substitution
3 in the -- pull out "the" and put in "this."

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

5 I'll go ahead and second it.

6 We've a motion by Mr. Jones, second by
7 Moulton-Patterson to approve Resolution 2003-306, Revision
8 2, with the noted change, "the" to "this" on the second
9 page.

10 Please call the roll.

11 SECRETARY WADDELL: Jones?

12 BOARD MEMBER JONES: Aye.

13 SECRETARY WADDELL: Medina?

14 VICE CHAIRPERSON MEDINA: Aye.

15 SECRETARY WADDELL: Paparian?

16 BOARD MEMBER PAPARIAN: Aye.

17 SECRETARY WADDELL: Peace?

18 BOARD MEMBER PEACE: Aye.

19 SECRETARY WADDELL: Washington?

20 BOARD MEMBER WASHINGTON: Aye.

21 SECRETARY WADDELL: Moulton-Patterson?

22 CHAIRPERSON MOULTON-PATTERSON: Aye.

23 Okay. That brings us back to -- is it item 13?

24 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

25 Board Item 13 is consideration of the grant

1 awards for the Local Government Waste Tire Cleanup Grant
2 Program for Fiscal Year 2002-2003.

3 I wanted to bring to the Board's attention as you
4 consider this item that two of the projects that the staff
5 is proposing for funding would potentially be adversely
6 affected by the determination just made by the Board with
7 regards to Item Number 29. You know, the reasons will be
8 explained as we present the item.

9 Given the fact that the policy was, you know,
10 just recently approved in the item before and because
11 these applicants, you know, weren't appraised of the
12 threshold determinations as to when this policy would be
13 imposed, you know, the staff would like to request some
14 waiver of the policy or some reconsideration of the impact
15 of the policy on these particular grantees. That's the
16 City of Merced and Marin County.

17 And with that brief overview I'll turn this over
18 to Diane Nordstrom to make the full staff presentation.

19 MS. NORDSTROM: Good morning, Madam Chair and
20 members of the Board. I'm Diane Nordstrom from the
21 Special Waste Division. And the item before you is the
22 consideration of the grant awards for the Local Government
23 Waste tire Cleanup Grant Program for Fiscal Year
24 2002-2003.

25 The Local Government Waste Tire Cleanup Grant

1 Program provides grant funding to local jurisdictions to
2 clean up illegally dumped tires. This will be the fifth
3 year that the Board has provided funding for this program.
4 The maximum amount of funding for each site is \$50,000 and
5 up to 200,000 for each jurisdiction.

6 The NOFA and the application were sent to
7 approximately 1400 local governments and indian tribes.
8 The application stated that the Board may choose to pursue
9 cost recovery. However, there was no mention of the
10 cutoff of 5,000 tires. The application included an
11 affidavit for private property owners with more than 500
12 tires on their property to sign under penalty of perjury
13 that they were not responsible for the tires being
14 disposed of on their property.

15 Board staff received 12 applications by the March
16 15th deadline, and the applications were reviewed and
17 ranked using the priority ranking criteria that was
18 approved by the Board at the August 2002 meeting.

19 The Imperial Valley Waste Management Task Force,
20 the City of Madera, the City of Fresno, the City of
21 Modesto, and the Nevada County received a rank of 1 based
22 on the number of tires to be remediated or the close
23 proximity to residents or sensitive environments.

24 The County of Marin, the County of Los Angeles,
25 Calaveras County, the City of Lancaster, Ventura County,

1 and the Salinas Valley Solid Waste Authority received a
2 rank of 2.

3 The City of Barstow received a rank of 2 for one
4 site and a rank of 3 on two other sites.

5 All 12 applications qualified for grant funding
6 since the grant program is undersubscribed for this fiscal
7 year. The total grant award being requested for this
8 cycle is \$691,940.28 out of the \$1 million allocated for
9 this fiscal year.

10 Attachment 1 provides detailed project
11 descriptions for each applicant. The cost per tire varies
12 greatly due to the number of tires to be remediated, the
13 location of the tires, the final end-use, and the amount
14 labor required to remove the tires.

15 The City of Lancaster, Imperial County Waste
16 Management Task Force, the County of Los Angeles, the City
17 of Fresno, and the City of Modesto are proposing to clean
18 up illegally disposed tires along public right-of-ways and
19 riverbanks.

20 The City of Barstow, Calaveras County, Salinas
21 Valley Solid Waste Authority, the City of Madera, and the
22 County of Nevada are proposing to clean up illegally
23 disposed tires on private property. However, there are
24 5,000 tires or less on each site.

25 Under the new cost recovery policy that was

1 presented prior to this item Board would not take
2 enforcement action against the property owners nor pursue
3 cost recovery for grant funds that are expended.

4 The County of Ventura is proposing to remove
5 13,000 tires from Chuck's Auto Parts and Salvage. The
6 Board has already completed enforcement action and has
7 entered into a stipulated order against that property
8 owner.

9 The Marin County LEA is proposing to remove an
10 estimated 5,000 to 8,000 tires located on private
11 property. The tires on this site were difficult to
12 estimate because they were located in a creek bed and many
13 are partially buried. The deceased property owner was
14 likely responsible for leaving the tires on the property.
15 But his wife has signed an affidavit stating she does not
16 know how the tires were put on the property.

17 The Marin County LEA does not support pursuing
18 cost recovery on this site since the 5,000 tire cutoff was
19 not stated in the application, nor determined prior to the
20 application deadline.

21 Staff recommends adoption of Resolution 2003-281,
22 and authorize the award of \$691,940.28 to the applicants
23 of the Local Government Waste Tire Cleanup Grant Program
24 for Fiscal Year 2002-2003.

25 This concludes my presentation.

1 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
2 Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Thank you.

4 I want to just get back to the issue that Mr. Lee
5 raised about there were two -- you said it was Marin
6 and --

7 MS. NORDSTROM: It's the City of Madera.

8 BOARD MEMBER PAPARIAN: -- and Madera.

9 Well, let me first -- let me ask this question
10 first: Is there anything else in the pipeline where we
11 could see this again, or are these the only set of grants
12 where we're going to see this as an issue, that is,
13 exempting something from the policy that we just adopted?

14 MS. NORDSTROM: I don't -- no, because we want
15 to -- from hereon out we want to implement this cost
16 recovery program. It's just the timing, when we approved
17 this policy is after the applications were actually
18 received.

19 BOARD MEMBER PAPARIAN: Okay.

20 DEPUTY DIRECTOR LEE: Mr. Paparian, as an
21 additional follow-up on that too, there was some
22 discussion between Legal and program staff, you know, on
23 the 5,000 tire threshold. You know, we ultimately agreed
24 with Legal that, you know, there is -- you know, the 5,000
25 number does have some -- you know, appears elsewhere in

1 statute or regulation and it made some sense to use that
2 as the number.

3 And it's I think staff's opinion that the
4 majority of the sites that we're going to deal with, you
5 know, probably will fall below the 5,000 threshold. And
6 if they don't, then, you know, we would ask to come back
7 at a later date to ask for some reconsideration on that
8 particular point.

9 But it was just these two particular sites, Marin
10 and Madera, because of the extenuating circumstances that
11 were involved with not having the policy in place at the
12 time they had to make their application that we think, you
13 know, warrants the Board's consideration of some waiver of
14 the policy that was just adopted.

15 BOARD MEMBER PAPARIAN: Almost like maybe we
16 should have done the policy after we did this item instead
17 of before.

18 Is the Legal Office -- are there any implications
19 here if we go ahead and exempt something from the policy
20 we just adopted?

21 CHIEF COUNSEL TOBIAS: Well, I think that -- the
22 staff's right, this was a question of timing. And it is
23 unfortunate, but that's the way it developed.

24 You know, I really think it's a question for the
25 Board. We suggested the 5,000 number because that's 5,000

1 tires that's required for a major tire facility permit.

2 I think that as long as the Board makes the
3 findings that staff already has in their why they need to
4 clean these up, I don't think we'll see a problem with the
5 next programs because the policy will be in place and the
6 grantees will know that ahead of time. There was kind of
7 an unfortunate lack of guidance, I guess, that we had in
8 place as the NOFA's went out.

9 BOARD MEMBER PAPARIAN: If a future site that we
10 do seek cost recovery against were to challenge that in
11 some way, would this be a precedent that they could use,
12 or are we on sound legal ground here?

13 CHIEF COUNSEL TOBIAS: I think you could just say
14 that you don't intend to precedent and that, you know, due
15 to way that we had to develop the policy that in this case
16 the Board will find that, you know, this is acceptable.
17 The other way is to basically stick to the policy and say
18 it's 5,000 tires, and grantees can do it. But I don't
19 know that that's not standing on some artificial --

20 CHAIRPERSON MOULTON-PATTERSON: Okay. I have a
21 number of Board numbers that wish to speak. However, I do
22 want to say, I was asked by I guess exec staff to do this
23 first. Knowing what I do now, I wish I would have just
24 left it in order.

25 But with that, Mr. Medina was next.

1 BOARD MEMBER PAPARIAN: Madam Chair, I just had
2 one follow-up question.

3 Kathryn, you just suggested a few things that
4 probably ought to be in the resolution if we decide to
5 adopt this.

6 CHIEF COUNSEL TOBIAS: I think they can actually
7 just be in the record. I think that what staff is
8 explaining is why these have come in. I think that the
9 Board can basically say -- and it can say in the
10 resolution, if you want, that this would not be a
11 precedent, that it's based on the information that the
12 grantees had at the time they applied and that that
13 number, you know, was not enough to make the policy
14 invalid.

15 BOARD MEMBER PAPARIAN: Okay. If we proceed I
16 think it might be cleaner to have it in the resolution so
17 if it's ever called up again.

18 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
19 Mr. Medina.

20 VICE CHAIRPERSON MEDINA: Thank you, Madam Chair.

21 I'd like to move Resolution 2003-281,
22 consideration of the grant awards for the Local Government
23 Waste Tire Cleanup Grant Program for Fiscal Year
24 2002-2003, with the appropriate wording to make this
25 binding. And also we may have been able grandfather these

1 two in the previous resolution.

2 CHAIRPERSON MOULTON-PATTERSON: I'll second it to
3 get it on the floor.

4 And then Mr. Jones is next, followed by Mr.
5 Washington with questions.

6 But we have a motion and a second on the floor.

7 Mr. Jones.

8 BOARD MEMBER JONES: Thank you, Madam Chair.

9 I guess two things: That the Marin number and
10 the Madera number were estimates of tires delivered by
11 whom? Who estimated 2700 and who estimated the 5,000
12 tires?

13 MS. NORDSTROM: With the city it was the code
14 enforcement and with the County of Marin it was the Marin
15 Conservation Corps.

16 BOARD MEMBER JONES: Great.

17 So in all likelihood, since this is an estimate,
18 this could very clearly -- this could very easily have
19 said 4700 tires?

20 MS. NORDSTROM: Right.

21 BOARD MEMBER JONES: Could have said 2700 tires.
22 You're still going to clean up whatever the tires are.

23 MS. NORDSTROM: Right.

24 BOARD MEMBER JONES: So we have -- Madam Chair,
25 we got an issue here that's troubling to me. That we just

1 did a policy, which I appreciate; and then the very next
2 item says, "But you have two sites that don't fall within
3 this policy." That puts us in another position that just
4 is absolutely maddening to me.

5 I would suggest that the tires in Marin --
6 without seeing them but with having experiences -- all of
7 you do. I've been to a lot of tire sites. In all
8 likelihood this count could be exaggerated, and they could
9 be less than 5,000 tires, correct?

10 MS. NORDSTROM: Correct.

11 BOARD MEMBER JONES: Madam Chair, I'd like this
12 agenda item to reflect that this is an estimate and could
13 be less than 5,000 tires. And we'll know after the fact.

14 If that's reasonable to members -- I'm not trying
15 to game the system. But we're dealing with an
16 uncertainty, which is tires, and what they -- how many are
17 there. We do a policy that makes sense, and then we get
18 an item immediately afterwards saying that we're going to
19 go against the policy that we just did. So I would
20 propose that -- or I'll ask staff: Are you comfortable
21 with those numbers -- and I'm not trying to game this
22 system. These are estimates of what tires are -- are you
23 comfortable that their number is accurate, or could it be
24 some number lower than that?

25 And I'm not hostile to you, believe me. I'm just

1 a little intense right now.

2 Are you comfortable, Mr. Fujii? You've seen lots
3 and lots of tire piles. Is there the possibility that
4 this could be in a range from somewhere between 4700 tires
5 and 7400 tires?

6 MR. FUJII: Definitely.

7 We haven't been out there to see the pile, so we
8 can't speak from personal knowledge. When we received
9 these grant applications, it's sort of on word of mouth of
10 the applicants. And I would agree with you, Mr. Jones.
11 And the issue that is before you now is here because, you
12 know, let's face it, if the policy were in place and these
13 applicants were to come in, you know, after the policy, I
14 mean, it's unlikely they would have affected the estimate
15 that they would have submitted in their application in the
16 first place. So that's the point you're making, which I
17 would agree with.

18 But that being said, we have no way at staff
19 level, having not seen the piles, of verifying that, you
20 know, the piles are what they say they are or less or
21 more. I mean we just have no way of knowing. It
22 certainly could be a lot less.

23 Maybe what we could suggest where there are
24 situations that are -- you know, if the Board wanted to go
25 ahead and leave the policy the way it was, we could verify

1 the count with our contractors when it's close, you know,
2 to make sure that they're not -- they don't have a 10,000
3 tire pile out there someplace and trying to get it cleaned
4 up with a grant, for example. We could go out and verify
5 that, you know, the count is definitely within that range.

6 BOARD MEMBER JONES: Thanks, Mr. Fujii.

7 Madam Chair?

8 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

9 BOARD MEMBER JONES: Through the Chair, if it's
10 okay, I'd like to ask Mr. Medina if his resolution could
11 also take into account that these tires -- that these
12 quantities of tires for each one of these applicants is an
13 estimate and falls within a range, but without our tire
14 staff going out and verifying, that they will verify that
15 they fall within a range of -- could be less than 5,000 or
16 a little bit more?

17 VICE CHAIRPERSON MEDINA: Madam Chair, I think
18 that because of the issues that have been raised around
19 this particular resolution, because it obviously needs
20 more work, I would withdraw my resolution and just hold it
21 over until we have some more time to work on it, whether
22 it's later today -- I don't know, when we take our break
23 or whenever our -- whatever our order of business is. But
24 obviously we need some more work on this -- that
25 particular item.

1 CHAIRPERSON MOULTON-PATTERSON: Well, we're not
2 going to be able to go out and count those tires.

3 But I'm just very upset that we -- that I was
4 asked to take these out of order and that the Board was
5 put in this position.

6 Is there any way we can -- I mean, you know, it's
7 very unfortunate.

8 EXECUTIVE DIRECTOR LEARY: Yes, and I apologize
9 for that, Madam Chair, and for the discomfort that's
10 creating among all the Board members in making this
11 decision.

12 CHAIRPERSON MOULTON-PATTERSON: We need to get
13 the money out the door, don't we?

14 EXECUTIVE DIRECTOR LEARY: I appreciate that.
15 And a possible suggestion might be that we go ahead and
16 make the award for all of the applicants except those two
17 at this time, and hold the other two in abeyance to a June
18 award and we'll take it from there.

19 VICE CHAIRPERSON MEDINA: That sounds like a
20 reasonable alternative.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Peace
22 was going to say the exact thing. And that sounds like it
23 is agreeable to the maker of the motion and it's agreeable
24 to the second -- I'm the seconder.

25 Please call the roll.

1 Oh, Mr. Washington. I'm so sorry. I forgot.

2 CHAIRPERSON MOULTON-PATTERSON: You know, I just
3 want to emphasize that, you know, that's a great concern
4 here. I'm sitting here about to just explode. And
5 perhaps Mr. Lee can explain to us why we -- knowing these
6 things, why would we take up an item and then take up the
7 second piece of this, knowing that it was going to cause
8 the lack of words and embarrassment to this Board to sit
9 here now knowing that this is going out to the public?
10 And I can tell you that if we had approved this with those
11 two items, then I wasn't going to vote for it, because it
12 would set precedence where I don't care what anybody say,
13 this is going across the State of California. And there
14 are people who are sitting there going, "If they approve
15 those guys knowing what we know, then we're going to raise
16 a lot of hell at that Board meeting if they don't approve
17 our item."

18 Is there any reason? Did you not know?

19 DEPUTY DIRECTOR LEE: Let me weigh in on this
20 first, and then perhaps Ms. Tobias can give some
21 additional background. But like I said, as I mentioned in
22 my earlier remarks, I think that the policy is well
23 intentioned. You know, we need to make sure that we
24 are -- the Board is acting in conformance and that we
25 aren't setting up some -- you know, with a grant program,

1 you know, some facility for cleaning up projects and not
2 taking cost recovery actions when we do on basically an
3 identical project that's not receiving a grant.

4 However, you know, the fact is, you know, the
5 policy wasn't in place at the time that this grant program
6 was coming forward. But, you know, I thought basically by
7 proposing the extenuating circumstances --

8 BOARD MEMBER WASHINGTON: But wouldn't it
9 eventually have been in place had we took up Item 13
10 before we took up -- I'm sorry, the opposite -- if we took
11 up the Item 29, I believe, and then dealt with Item 13, or
12 had we took up Item 13 and then dealt with 29, it would
13 have been in place, correct, before we voted on the second
14 piece of it?

15 DEPUTY DIRECTOR LEE: That's correct.

16 Ms. Tobias to kind of -- to talk again about the
17 sequence of events for this.

18 CHAIRPERSON MOULTON-PATTERSON: Well, it's
19 unfortunate. I don't know if anything more needs to be
20 said.

21 Did you have anything you wanted to say? Because
22 we're going to be taking those out of the motion.

23 CHIEF COUNSEL TOBIAS: I think the only thing
24 I -- is that what the issue -- the staff thought was the
25 issue here was a deviation from the Board's cost recovery

1 policy. And so when we originally looked at this item --
2 and it was an approach that was trying to facilitate
3 getting the tires cleaned up. And there was a gap, if you
4 will, between what the Board's cost recovery policy is and
5 what locals wanted to do, which was they wanted to clean
6 up the properties; and for the reasons that we stated in
7 the item, it's not feasible for them to pursue cost
8 recovery.

9 So in putting this together -- and I agree that
10 the timing was unfortunate, but sometimes we can't control
11 everything -- that what we wanted to get clear from the
12 Board was whether the board would accept these limited
13 reasons for not doing cost recovery when we're giving
14 grants to the locals to clean these up.

15 So I understand the confusion over the numbers.
16 I understand that the Board feels that they don't match
17 up. But what we were focusing on was a fairly big change,
18 if you will, from the Board's previous policy. And so
19 that was our focus.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
21 motion on the floor to approve Resolution 2003-281 with
22 deletion until we get further information of the city --
23 is it the City of Madera and the County of Marin? Is that
24 correct?

25 DEPUTY DIRECTOR LEE: That's correct.

1 CHAIRPERSON MOULTON-PATTERSON: The motion was
2 made by Mr. Medina and it was seconded by
3 Moulton-Patterson.

4 Please call the roll.

5 SECRETARY WADDELL: Jones?

6 BOARD MEMBER JONES: Aye.

7 SECRETARY WADDELL: Medina?

8 VICE CHAIRPERSON MEDINA: Aye.

9 SECRETARY WADDELL: Paparian?

10 BOARD MEMBER PAPARIAN: Aye.

11 SECRETARY WADDELL: Peace?

12 BOARD MEMBER PEACE: Aye.

13 SECRETARY WADDELL: Washington?

14 BOARD MEMBER WASHINGTON: Aye.

15 SECRETARY WADDELL: Moulton-Patterson?

16 CHAIRPERSON MOULTON-PATTERSON: Aye.

17 BOARD MEMBER JONES? Madam Chair?

18 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

19 BOARD MEMBER JONES: Just half a second.

20 I don't think the Board members are confused by
21 the numbers and we're not confused by the timing.

22 We had a policy in place. There were times that
23 when we gave these grants out, the cities refused to do
24 it. They still got the grants. So I'm having a little
25 bit of problem with that explanation. And I want it done

1 on the record because it was on the record that the Board
2 members were confused by the timing. And I got to tell
3 you, I'm not confused by the timing or the numbers. And I
4 just wanted that on the record because I don't want this
5 Board to be perceived as not understanding these items.

6 And I apologize Madam Chair, but that wasn't
7 going unchecked.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 CHIEF COUNSEL TOBIAS: Madam Chair, if I could
10 add to the record as well.

11 I think when this NOFA came through several
12 months ago we did indicate that we were working on a
13 policy for it and that we had put some temporary language
14 in the NOFA because we were trying to deal with this. So,
15 again, I think that -- you know, staff never wishes to put
16 the Board in an uncomfortable situation, but I do think
17 that we had indicated several months ago that there was an
18 ongoing issue with these grants over cost recovery.

19 CHAIRPERSON MOULTON-PATTERSON: That was conveyed
20 to all the Board members?

21 CHIEF COUNSEL TOBIAS: I believe that we talked
22 about it in the meeting. But I'd be happy to look at the
23 transcript and verify that.

24 CHAIRPERSON MOULTON-PATTERSON: Let's proceed.
25 We want to get this money out and clean up the tires.

1 And that means that we're going to be going to
2 Item 15, which is consideration of concepts to be funded
3 from the reallocation of unused Fiscal Year 2002-2003
4 Waste Tire Recycling Management Program funds. And I
5 understand the -- although it hasn't been voted on yet,
6 but the Committee on Special Waste has done extensive work
7 on the five-year plan and put a lot of time in. But there
8 is some leftover money, some reallocation. And several of
9 the Board members had some possible ideas on how this
10 could be used and how we can do what we're supposed to do
11 and get this money out.

12 So I'll turn it over to Mr. Lee.

13 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

14 Board Item 15 is consideration of the concepts to
15 be funded from the reallocation of unused Fiscal Year
16 2002-2003 Waste Tire Recycling Management Program funds.

17 Special Waste and Market Development Committees
18 recommended that this item be discussed before the full
19 Board. This decision was made to allow staff and
20 Committee members more time for a comprehensive assessment
21 of reallocation recommendations made by the Board Chair.
22 Staff has reviewed the Board Chair's proposals and has
23 some suggestions for modification which will be discussed,
24 along with other staff reallocation recommendations in our
25 presentation.

1 Martha Gildart will make the staff presentation.

2 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

3 Good morning.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Just

5 before Martha starts I did want to say that

6 congratulations are in order for Arnie Sowell. And I

7 understand that he's an undersecretary for the State and

8 Consumer Affairs. We're really proud of you, Arnie, and

9 thank you for being here. Give you a big hand.

10 (Applause.)

11 CHAIRPERSON MOULTON-PATTERSON: And Arnie is here

12 to answer any questions on the one proposal. So I just

13 wanted to mention that. We're real happy about that,

14 Arnie.

15 Thanks, Ms. Gildart. Sorry for the interruption.

16 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

17 No problem.

18 This is the end of the second year of a very

19 ambitious five-year plan that was laid out and adopted by

20 this Board. We have carried out the majority of the

21 activities that had been allocated funds in that five-year

22 plan for Fiscal Year 2002-2003.

23 However, there are some elements with funds

24 remaining. And so today we will be discussing how best to

25 use those funds in the limited time left for the fiscal

1 year.

2 If you would look at Table 2, which is on page
3 15-3. There is a listing of the program elements from the
4 five-year plan. And it shows how much had been allocated
5 in that plan, how much was actually encumbered during
6 award, and what balance there is remaining. And I thought
7 I would briefly run down some of these programs and
8 describe the results.

9 The Local Government Waste Tire Enforcement Grant
10 Program had \$4 million allocated. This was a doubling
11 from the previous year's allocation. And over \$3 million
12 have been put out the door to local governments to be our
13 eyes and ears in the field. There's a balance from that
14 program of \$279,527.

15 Under the Cleanup and Abatement Program, the
16 Westley fire site is cleaned up ahead of schedule and
17 under budget. The \$2 million that had been allocated from
18 this fiscal year's funds remains to be available for other
19 activities.

20 The Local Government Waste Tire Cleanup Grant
21 Program, which the Board has just acted on a majority of
22 the awards, had been estimated to encumber \$691,941.
23 We're going to assume that those two grants that were
24 pulled out of today's action and come back to the Board in
25 June will be approved, so I'm going to leave that amount

1 in the balance column at \$308,059 it that meets the
2 approval of the Board today.

3 The Local Government Amnesty Day Grants went out
4 at \$321,000. There's a remainder of over 178,000.

5 The next number in your table is a negative
6 number. This was already directed by the Board and
7 awarded in a contract, though it had not been part of the
8 original allocation. Therefore, it is not available and
9 is showing in the balance column as a negative.

10 Under the Research Program, a couple of the
11 contracts that were awarded came in under the allocated
12 amount. And those are indicated in the balance column.
13 There is the revised change in the pyrolysis report. The
14 actual amount came in -- there's an additional \$14,900.
15 So instead of 50,000, that should be 64,900 available
16 there.

17 The Energy Recovery From Tires Grant was just
18 awarded today at the \$697,466 level, leaving 302,534.

19 These additional contracts were awarded -- I do
20 want to point out that the recycled rubberized asphalt
21 contract -- I'm sorry -- recycled rubberized concrete
22 study was not successfully awarded this year. We had had
23 discussions with CalTrans. They did not take up on it.
24 However, in the revisions to the five-year plan, there is
25 money set aside for a host of research projects with

1 CalTrans. And they are committing to look at the
2 recycling of rubberized asphalt in that amount. So that
3 200,000 is available.

4 Under the public services announcements, one of
5 the items heard by the Committee was the preliminary
6 results from a survey on public education. Those results
7 will be fed in directly to next year's fiscal year's
8 allocation of funds for an outreach and media campaign.
9 The survey was not done this year, so there's \$350,000
10 available.

11 The civil engineering uses under market
12 development has a million dollars available. That was
13 also a program we did not pursue. In discussions with
14 local governments, they were not ready yet for what we had
15 envisioned as a grant program.

16 The Playground Cover Grants had \$47,000
17 remaining. Product Commercialization Grant actually
18 has -- oh, excuse me. The track and product
19 commercialization grants you will see had more passing
20 grants than the funds originally allocated. So what we're
21 showing here is what was awarded to the passing and funded
22 grants. There is some money left over, but you will see
23 that we have them on the list to use the unencumbered
24 balance for the additional grantees.

25 Let's see, the next thing to point out really is

1 in the Loren Grissette School Project. That shows up also
2 as a negative number in your balance column because the
3 Board approved award of that \$150,000, which was not
4 allocated in the five-year plan. So that's already
5 committed to.

6 Let's see, anything else to point out?

7 There is -- the funny anomaly, we've had this in
8 the past, because the monies from the tire program are
9 split between state operations and local assistance line
10 items in the budgets, there's a certain amount of money in
11 each, and they can only be used for those specific
12 activities. So there's actually \$894 left in local
13 assistance for which there's no use.

14 So the grand total of money available for
15 reallocation is the \$3,438,925. This takes into account a
16 very important issue here. In the original reallocation
17 of the five-year plan, the total had exceeded the actual
18 expenditure authority within the state budget for Fiscal
19 Year 2002-2003. That is the \$1,836,000 figure that shows
20 up as the negative at the bottom of the first page.

21 That was a function of the budget process.
22 Fortunately we've got sufficient funds to cover it and,
23 indeed, excess. So we have monies to reallocate to new
24 activities.

25 The revised table is a -- it will go up on your

1 screens in just minute. There are a list of options here.

2 The first two are those track grants and the
3 product commercialization grants for which there were
4 passing applications above and beyond the original
5 allocation. And the staff is recommending that those
6 passing grant applicants be fully funded. That would be
7 the \$1,250,000 for the product commercialization grants
8 and the \$948,545 for the track and recreational.

9 I want to point out that that will bring the
10 total number of grants in the product commercialization
11 program this year to 12, on top of the 8 grants issued
12 last year. And then for the track and other recreational
13 surface grants there will be a total of 21 grants on top
14 of the 25 grants awarded last year, administered by the
15 same grant manager.

16 The next item is funding to be provided to the
17 Local Enforcement Agent Operator Certification Program.
18 This was a contract that had been considered in September,
19 Contract Concept 23. It was not approved for funding with
20 Integrated Waste Management Account funds. However, the
21 Board at the time requested that the Special Waste
22 Division consider allocating any unused tire funds to
23 support this activity.

24 CHAIRPERSON MOULTON-PATTERSON: Ms. Gildart, may
25 I interrupt just for a clarification. I'm not on the

1 Special Waste Committee, so please be patient with me.

2 But on the items that I had recommended, would
3 Item Number 18 be where I would try and plug in the money
4 for OEHHA? Is that --

5 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

6 Correct, correct.

7 CHAIRPERSON MOULTON-PATTERSON: And Item Number
8 19 for DGS, the state fleet, is that the -- am I on --

9 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

10 Those are the new additions. The first listing
11 up there are the ones that the staff had originally
12 proposed before going to the Committee. The bottom ones
13 starting there with Number 18 are the additions that have
14 come from the Board.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.
16 Appreciate that.

17 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

18 Okay.

19 BOARD MEMBER JONES: Madam Chair?

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

21 BOARD MEMBER JONES: So with the staff proposals,
22 the 7 through 16 that we see here, we're still looking at
23 in excess of 568,000 --

24 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

25 Roughly, yes.

1 BOARD MEMBER JONES: Or 583,380 actually of
2 dollars that need to be encumbered?

3 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
4 Correct.

5 BOARD MEMBER JONES: So the Chair's programs as
6 well as some of the other things would fall into some of
7 those categories that she had just asked about, 18, 19?

8 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
9 Correct.

10 BOARD MEMBER JONES: So we have 568 besides what
11 staff has proposed, which is basically a lot of funding of
12 projects that had already got passing scores but needed
13 more money. And, you know, the LEA certification --
14 operator certification program, when we had discussed
15 this, just to remind the members, tires are a big part of
16 what goes into landfills and there was a commitment by me
17 as well as people that are running that program that
18 these -- there will be a huge emphasis on the tires as
19 part of our ongoing training program. And that was the
20 only reason I felt that it was reasonable to put into this
21 funding source, because the emphasis would be on tires.
22 And they do create issues at landfills. So it made sense
23 to me, but maybe not others. Who knows.

24 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
25 Okay. So just real quickly then going down the

1 list. The amounts of money shown in column C were
2 recommended by the staff. There was brief discussion at
3 the Committee.

4 Do we just want to get into a discussion then of
5 the new proposals on how they're structured, or do you
6 want to discuss the details then of any of the above
7 listed programs?

8 CHAIRPERSON MOULTON-PATTERSON: I'm comfortable
9 with some of the other work that's been done. I don't
10 want to rehash that.

11 Would the best way that we proceed, colleagues,
12 to just go over some of the new items and see what we can
13 fit in with our money that's left?

14 BOARD MEMBER JONES: Can I ask a question of you,
15 Madam Chair?

16 CHAIRPERSON MOULTON-PATTERSON: Sure.

17 BOARD MEMBER JONES: Your proposals made sense.
18 There was a -- staff looked at them and tried to tweak
19 them.

20 Are you comfortable with those tweaks?

21 CHAIRPERSON MOULTON-PATTERSON: Yes.

22 BOARD MEMBER JONES: Okay. And then I know -- I
23 know Mr. Washington has an issue.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington
25 has one that sounded really good.

1 Did you want to bring that up, Mr. Washington?

2 BOARD MEMBER WASHINGTON: Yeah, I did, Madam
3 Chair.

4 The Compton Community College has made a request
5 for an allocation regarding using recyclable tires and
6 materials for their asphalt in some of the other areas
7 down in their community. And I think I explained briefly
8 to the staff that Compton Community College is the only
9 institution down in southern California now where the
10 community actually utilized this field. And I mean from
11 Pop Warner to soccer to baseball to football. It's open
12 almost seven days a week now. And I think this would be
13 an excellent opportunity for us to put resources into this
14 community college which service a very disadvantaged
15 constituency of students down there. And this would be an
16 excellent opportunity for us to participate in helping
17 that community down there.

18 CHAIRPERSON MOULTON-PATTERSON: Well, I would
19 certainly be in favor of this.

20 Did you mention to me that this could be possibly
21 a pilot program, and then we could just stand on it in
22 later years?

23 BOARD MEMBER WASHINGTON: Yeah, I would like to
24 see it as a demonstration project to forgo all of the
25 ongoing necessities if it goes on that particular program

1 so they can get this money as quickly as possible, again
2 to move forward.

3 BOARD MEMBER JONES: Madam Chair?

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: Mr. Washington, because it's
6 a pilot program -- I mean obviously they want 200 grand,
7 but they'd have to deal with probably a hundred.

8 BOARD MEMBER WASHINGTON: Yeah, that's fine. I
9 think that whatever we could do to help them -- as I've
10 said on the other projects that have come forward,
11 whatever we can do to assist them would be great.

12 CHAIRPERSON MOULTON-PATTERSON: Okay, great.
13 Thank you.

14 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

15 Could I ask just for some details on what exactly
16 they are proposing to use the money for?

17 BOARD MEMBER WASHINGTON: I guess they have a --

18 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

19 Is this a track or --

20 BOARD MEMBER WASHINGTON: It's the track and some
21 asphalt area down where they have to park their cars and
22 walk up this place where there are holes or puddles of
23 holes in the ground, and they want to use recycled
24 material to pave some of that stuff. And I think in a
25 letter you'll see where they tried to do it over and over

1 again. And they're trying to really put this part behind
2 them so they can continue to move forward.

3 BOARD MEMBER JONES: This kind of sounds similar
4 to the DGS projects that we've approved in years past
5 where they came in at the end and had some benefit, and
6 then we worked out the detail after the allocation.

7 CHAIRPERSON MOULTON-PATTERSON: Okay.

8 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:
9 I'm just exploring whether we'd be using as a
10 format for this agreement a contract, an interagency
11 agreement, a grant agreement, whether there'd be a
12 matching requirement, whether they would commit to using
13 California tire rubber; if this is a demonstration
14 project, what is the structure and how would we be
15 proceeding with it.

16 BOARD MEMBER WASHINGTON: Well, being a
17 government agency, you can use it as an interagency
18 agreement or whatever that fits the mould of making it as
19 easy as possible. I don't want it to be a matching grant
20 program.

21 CHAIRPERSON MOULTON-PATTERSON: But you wouldn't
22 have any objection to the use of California tires, would
23 you?

24 BOARD MEMBER WASHINGTON: Absolutely not. I mean
25 I think -- they didn't go into details, but they mentioned

1 that whatever else we wanted to find, they'd just try to
2 get it on the books as quick as possible. And I think
3 they're very much amenable to using California tires to do
4 the project.

5 CHAIRPERSON MOULTON-PATTERSON: And you say if we
6 didn't have the requested amount, they would understand?

7 BOARD MEMBER WASHINGTON: Absolutely.

8 CHAIRPERSON MOULTON-PATTERSON: So how do we come
9 out with these numbers? Do we a rolling tally --

10 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

11 I'm sorry. How much is this Compton project?

12 BOARD MEMBER JONES: A hundred --

13 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART: A
14 hundred thousand?

15 BOARD MEMBER WASHINGTON: A hundred thousand.

16 BOARD MEMBER JONES: Madam Chair?

17 CHAIRPERSON MOULTON-PATTERSON: Yes.

18 BOARD MEMBER JONES: Just one quick question of
19 Mr. Washington. I'm going to try to set a scenario here,
20 if you'll bear with me.

21 So this is going to be a pilot program; this is
22 going to use recycled tire products both in asphalt
23 walking area and recreational, where they're going to
24 obviously -- the hundred thousand's not going to be enough
25 to do the whole project?

1 BOARD MEMBER WASHINGTON: Exactly.

2 BOARD MEMBER JONES: So there will be a match of
3 their funds to fulfill it; and then we're going to get a
4 report -- they're going to first identify the areas to
5 make sure that they are the parking, driving, walking, and
6 running areas -- or recreational areas and that they're
7 going to use California-specific tires; and they are going
8 to write a report back to the Board or at least a, you
9 know, quick report as to what -- you know, how they used
10 the recycled, how it came in place, and what it's benefits
11 were to the community college; and that they're going to
12 put a sign saying that part of the funding for that
13 project was from the California Integrated Waste
14 Management Board, and it will be an interagency agreement
15 as a pilot between this Board and Compton Community
16 College?

17 BOARD MEMBER WASHINGTON: Absolutely. And I
18 appreciate that, Mr. Jones. Again, I'm -- the details
19 wasn't put in this particular letter, but we did want to
20 make sure that this -- and you're absolutely correct, all
21 those things will be a part of this project.

22 BOARD MEMBER JONES: That way the staff can
23 manage it and the community college will know what's
24 there.

25 BOARD MEMBER WASHINGTON: Yeah.

1 BOARD MEMBER JONES: Thanks, Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

3 Washington and Mr. Jones.

4 Mr. Medina.

5 VICE CHAIRPERSON MEDINA: Are we ready to move
6 this item, Madam Chair, or --

7 CHAIRPERSON MOULTON-PATTERSON: Yes.

8 DEPUTY DIRECTOR LEE: Madam Chair?

9 BOARD MEMBER JONES: You still have more money.

10 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. -- well,
11 I wanted to just make sure that we had in there a hundred
12 thousand to OEHHA to evaluate health risks from the
13 facilities emissions with and without the use of tires.
14 That was brought up at the Senate Budget Committee. We
15 have a hundred thousand for DGS state fleet, a use of
16 retread tires, recycle content in tires and longer
17 lifespan tires; 20,000 for product stewardship, an
18 interagency agreement with Product Stewardship Institute;
19 and then a hundred thousand for the Compton Community
20 College District.

21 Do we have enough money for that?

22 BOARD MEMBER JONES: And we have 213,380, right,
23 that we still need to do before we make the motion?
24 Otherwise --

25 CHAIRPERSON MOULTON-PATTERSON: Okay.

1 BOARD MEMBER JONES: -- it will be unallocated.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian has
3 his light on.

4 BOARD MEMBER JONES: Or it could carry over.

5

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

7 BOARD MEMBER PAPARIAN: Yeah, I've got one --
8 actually two suggestions about how to deal with the money.
9 The first one is that in the original plan we had \$350,000
10 set aside for the public service announcements, which we
11 heard the reasons why that didn't get spent this year.
12 However, we are on the cusp of getting all the information
13 from CSU Chico that can be used for this effort in the
14 future. And I know the Chair has suggested a social
15 marketing type approach to be taken up in the next agenda
16 item for this -- the use of this money.

17 My suggestion would be that -- we have an
18 existing contract with CSU San Marcos to do community
19 based social marketing for the used oil program. My
20 suggestion would be to set aside \$60,000 for an
21 interagency agreement for CSU San Marcos to do a similar
22 pilot project on tires for community-based social
23 marketing to try to see if the same concepts they are
24 using with the used oil program could then be utilized for
25 the tire concept to work on source reduction activities,

1 that is, you know, tire maintenance and proper tire care,
2 for the tire program.

3 So this would be very similar to what we're doing
4 in the used oil program and would utilize the information
5 from CSU Chico and use it for a pilot project, that could
6 then provide us with information as we go forward with
7 implementation of similar items in the five-year tire
8 plan.

9 So my suggestion was going to be for \$60,000
10 there.

11 CHAIRPERSON MOULTON-PATTERSON: I don't hear any
12 objection to that.

13 BOARD MEMBER PAPARIAN: Okay. And my other
14 suggestion, Madam Chair, if there is money left over, what
15 we could do is, where we have a state agency funded in the
16 five-year plan, we could enter into an interagency
17 agreement with that state agency and then free up this
18 \$150,000 in the five-year plan for next year. That is, if
19 we have, for example, DGS funded next year in the
20 five-year plan, you could enter into an interagency
21 agreement this year for those services, and that would
22 free up money in the five-year plan.

23 CHAIRPERSON MOULTON-PATTERSON: But would it have
24 to go back to Special Waste Committee?

25 BOARD MEMBER PAPARIAN: I don't think so. I

1 think we're allocating that today.

2 So basically you could spend What would have been
3 '03-'04 money this year and give some more money -- make
4 more money available in '03-'04.

5 Again, that's just a suggestion. I look to the
6 Chair for her guidance about how she wants to proceed with
7 that.

8 CHAIRPERSON MOULTON-PATTERSON: I'll look to my
9 Special Waste Board members. I think everybody's
10 comfortable with everything that's been mentioned. And
11 the 60,000 you mentioned, what do you think about this?

12 DEPUTY DIRECTOR LEE: Madam Chair, could I
13 introduce --

14 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Lee.

15 DEPUTY DIRECTOR LEE: Thank you. A couple of
16 things here's. There's I think about 10 or 11 different
17 new interagency agreements that are going to be introduced
18 as part of this reallocation at last count.

19 We'd like to make sure -- the staff would like to
20 put forth for the Board's consideration, again, is the way
21 that we will handle these and brings these back to the
22 Board in June. You know, what we had suggested was almost
23 kind of a blanket agenda item for June that basically
24 encompasses, if you will, many scopes of work within that.
25 And then has as a part with that separate resolutions --

1 place-order resolutions, if you will, and interagency
2 agreements so that we can get the money encumbered and
3 also free up some staff time, you know, to work out the
4 details, you know, on all these interagency agreements and
5 bring those back to the Board at a later time.

6 Is the Board comfortable with that approach?

7 BOARD MEMBER JONES: That makes sense to me,
8 Madam Chair?

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr. Jones.

10 BOARD MEMBER JONES: I think Mr. Lee's idea of
11 bringing those interagency agreements back to us in June
12 to figure out where we can put this other 153,000 probably
13 makes sense.

14 He may want to expand on that a little bit.

15 DEPUTY DIRECTOR LEE: Mr. Jones, it's a little
16 bit larger than that. It's more than just for the 153,000
17 available. It's for, you know, basically I think -- I'd
18 like to say, there's 10 or 11 individual items that are on
19 the reallocation list that are going to require either new
20 interagency agreements or revised interagency agreements.
21 You know, seeing as were just about to be trying to put
22 the June agenda to bed here in the next week or so, it
23 would be a great deal of work to have to try and provide,
24 you know, full-scale, comprehensive agreements within that
25 timeframe. So what we were suggesting as an alternative

1 is, you know, basically a single agenda item for next
2 month that basically is kind of -- would address all of
3 these considerations as kind of a -- almost like a spot
4 bill approach, if you will.

5 CHAIRPERSON MOULTON-PATTERSON: Not the ones
6 we've already decided that are going forward?

7 DEPUTY DIRECTOR LEE: Yes, the ones that had been
8 proposed here just so that -- because -- they have to be
9 brought back before the Board in some form if you get
10 approval of the scope of work and to encumber the funds.

11 CHAIRPERSON MOULTON-PATTERSON: Well, what are we
12 doing then --

13 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

14 Excuse me. The Board's normal process in
15 entering into interagency agreements involves bringing
16 scopes of work and the award item back separately through
17 the Committee and the Board. Because this is the end of
18 the fiscal year, we would have to do it for I think it's
19 like ten new interagency agreements on this list to get
20 those funds actually encumbered by June 30th.

21 So what he's asking is if we can -- instead of
22 writing ten separate agenda items with ten separate scopes
23 of work that have been worked out in detail, is to have a
24 sort of summary of these ten items and get approval from
25 the Board to enter into those agreements. And those

1 agreements then would also have statements to the fact
2 that we would have to be working out the details with
3 these agencies perhaps after June.

4 CHAIRPERSON MOULTON-PATTERSON: So we don't
5 really have a choice, and that's just -- but we can give
6 our go-ahead for the ones that we've discussed, I mean --

7 VICE CHAIRPERSON MEDINA: Madam Chair, I think --

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

9 VICE CHAIRPERSON MEDINA: -- we should go ahead
10 and include the Compton item, also the Board Member
11 Paparian's San Marcos item, and roll over the remaining
12 money till a future meeting, at which time we can decide
13 with that. And then we'll do as the staff suggested on
14 these other items. But I think in regard to those two
15 items, the Compton one and the amount that was recommended
16 and the --

17 CHAIRPERSON MOULTON-PATTERSON: The OEHHA --

18 VICE CHAIRPERSON MEDINA: Yes, the OEHHA --

19 CHAIRPERSON MOULTON-PATTERSON: -- DGS --

20 VICE CHAIRPERSON MEDINA: Exactly.

21 CHAIRPERSON MOULTON-PATTERSON: -- 20,000 for
22 product stewardship, 60,000 thousand for San Marcos. And
23 go ahead with that. And then you can bring us back the
24 other.

25 Is that what you're saying, Mr. Medina?

1 VICE CHAIRPERSON MEDINA: Yes. And then the
2 remainder we just roll over at the appropriate time.

3 BOARD MEMBER JONES: I'll second that.

4 CHAIRPERSON MOULTON-PATTERSON: We have a motion
5 by Mr. Medina, seconded by Mr. Jones to approve Resolution
6 2003-276 revised.

7 And I'm assuming staff has those amounts,
8 \$100,000 for the OEHHA to evaluate health risks from the
9 facilities emissions, \$100,000 to DGS for the state fleet
10 use of retread tires and so forth; \$20,000 for product
11 Stewardship, and \$60,000 for Mr. Paparian's suggestion on
12 the CSU San Marcos.

13 BOARD MEMBER JONES: And a Hundred for Compton --

14 CHAIRPERSON MOULTON-PATTERSON: And a hundred
15 thousand for Compton Community College.

16 BOARD MEMBER JONES: And then you had 50 on here
17 for something with Long Beach, fleet management training.

18 Was that one of ours?

19 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

20 Yes, that was a split out between the DGS and
21 fleet management training. It was originally one
22 proposal, but there's two entities now involved.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you for
24 splitting that out.

25 Please call the roll.

1 SECRETARY WADDELL: Jones?
2 BOARD MEMBER JONES: Aye.
3 SECRETARY WADDELL: Medina?
4 VICE CHAIRPERSON MEDINA: Aye.
5 SECRETARY WADDELL: Paparian?
6 BOARD MEMBER PAPARIAN: Aye.
7 SECRETARY WADDELL: Peace?
8 BOARD MEMBER PEACE: Aye.
9 SECRETARY WADDELL: Washington?
10 BOARD MEMBER WASHINGTON: Aye.
11 SECRETARY WADDELL: Moulton-Patterson?
12 CHAIRPERSON MOULTON-PATTERSON: Aye.
13 And I apologize. Jim needs a break. So we're
14 going to be taking a break right now.
15 Motion approved.
16 (Thereupon a recess was taken.)
17 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
18 our meeting back to order.
19 Mr. Jones, do you have any ex partes?
20 BOARD MEMBER JONES: Mark Aprea and John Cupps.
21 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.
22 BOARD MEMBER PEACE: Yes, I spoke to George
23 Larson regarding the plastic energy plant in Hanford.
24 CHAIRPERSON MOULTON-PATTERSON: Thank you.
25 I have none.

1 Mr. Medina?

2 VICE CHAIRPERSON MEMBER MEDINA: None to report.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

4 BOARD MEMBER PAPARIAN: Yeah, I spoke to Arnie
5 Sowell about the DGS activities. I spoke to Mark Murray
6 and Mark Aprea. And I also spoke to George Larson
7 regarding Item Number 17.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

9 BOARD MEMBER WASHINGTON: I'm up to date.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

11 And just for the audience, we still have 16, the
12 five-year plan; 17; 26; and 30.

13 And then I imagine we'll take our lunch break and
14 then go back into closed session at -- depending on what
15 time we break for lunch. I imagine it would be at 1:30.

16 Is that okay with Board members?

17 Okay. Then I'll turn it back over to Mr. Lee.

18 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

19 Board Item 16 is consideration of the adoption of
20 the Revised Five-Year Plan for the Waste Tire Recycling
21 Management Program, second edition, covering Fiscal Year
22 2003-2004 through 2007-2008.

23 Martha Gildart will make the staff presentation.

24 (Thereupon an overhead presentation was

25 Presented as follows.)

1 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

2 First we're going to start with a little history
3 of how we got to this point today, what was done to
4 develop the draft.

5 The Special Waste Committee first held three
6 public workshops to solicit input on what we should be
7 looking at in developing the five-year plan. They were
8 held in October in Sacramento, Van Nuys, and Concord.
9 Then on November 6th the Committee at one of its regular
10 scheduled meetings held a public workshop to consolidate
11 the comments and then starting in January held three
12 different meetings to actually delve through the details
13 of the budget and the text.

14 --o0o--

15 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

16 Today we are going to be presenting that draft revised
17 plan with the budget changes for the first three years
18 that had been included in the original plan, plus two
19 additional years added to make the full five-year scale.

20 We are seeking approval on the budget and the
21 text.

22 We will also be covering very briefly what shows
23 up in Appendix C now of the document as the baseline for
24 the performance measures. One of the requirements that SB
25 876 set upon the board in requiring a five-year plan is

1 that we also track our progress. So we have collected
2 information from the first year, 2001-2002 fiscal year, to
3 set as the baseline, and we will be measuring our progress
4 now against that year by year.

5 --o0o--

6 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

7 Just to give you a brief overview of what we're
8 looking at, the Board's expenditure authority as set by
9 the State Budget Act at this time is \$31.8 million. That
10 was established last year and held through for this year.
11 And unless the Board submits a budget change proposal,
12 we'll continue forward for each of the years in the
13 five-year plan.

14 One of the things the Committee did was to look
15 at what we called essential program elements. And these
16 are programs that had very little flexibility in changing
17 the funding levels or the projects. And those are the
18 Administration Division activities, which is set by the SB
19 876 statute at 5 percent of the revenues, and that's the
20 \$1.5 million; various mandatory contracts that this agency
21 must enter into for things like the rent for the
22 Governor's office in Washington DC, et cetera, and that
23 comes to the \$1,384,000. We felt that the enforcement
24 program because of the emphasis on SB 876 was so strong on
25 enforcing the regulations and making sure that people

1 handle tires properly, haul tires properly, and that we
2 could enforce against illegal sites, the Committee has
3 recommended that it be set at the \$7,525,000 level for the
4 first year, 2003-4. And the remediation is also a core
5 program and is set at the \$8,092,000.

6 There's an asterisk there to say that this does
7 not include the mandatory \$333,000 for the farm and ranch
8 program funding from the tire fund. That is outside of
9 the \$31.8 million expenditure authority. However, we do
10 include it when we discuss remediation as meeting the
11 requirement in SB 876 that the Board spend \$6 1/2 million
12 for each of the first five years.

13 And then the last program we felt was one of the
14 essentially programs is the hauler manifest program. And
15 as you've heard some of the presentations made to this
16 body, the Information Management Branch and the
17 Administration Division has done a magnificent job in
18 designing a very comprehensive manifest system that,
19 nonetheless, is going to have a fairly high price tag.
20 And we're trying to set that also aside.

21 --o0o--

22 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

23 We've also got the essential program elements
24 here for the Fiscal Year 2004-5. The Committee wanted to
25 focus on the first two years and get the details worked

1 out at a very fine level for the first two years because,
2 once again, under SB 876, we can do revisions every two
3 years. So for the Fiscal Year 2005-2006 and out there are
4 chances for the Board to come back and readdress and
5 adjust those numbers.

6 So once again we have set aside these same
7 essential programs here. And in this instance it totals
8 the \$20 million.

9 So that leaves -- if I go back -- does this work?

10 Okay. I'm sorry. There we go.

11 Okay, there. Now it's working.

12 Okay. The 2003-4 the remaining funds were
13 \$11,345,000. And then for 2004-2005 it's \$11,745,000.

14 --o0o--

15 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

16 One of the things we wanted to remind the Board
17 is that the tire fee under SB 876 will drop from its
18 current \$1 per tire in December 31st, 2006, to \$.75 so
19 that means that fiscal year, the 2006-2007 fiscal year is
20 split on its revenues. And we're estimating revenues will
21 come in around \$28 million, and then in 2007-8 when it's
22 its first full year at the \$.75 level it will only be
23 about \$24 million. And we're trying to show this
24 graphically.

25 --00o--

1 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

2 The top line there, the \$31.8 million, is the
3 current expenditure authority. Even if our revenues drop,
4 if we want to match our expenditure authority to those
5 revenues, we would have to submit a budget change proposal
6 to decrease our spending authority. However, there is a
7 possibility, at least in the first year and perhaps in the
8 second year, of continuing out the Board's expenditure
9 authority at 31.8 million by using any monies that are
10 left in the reserve.

11 We are fairly confident that at least the 2006-7
12 year, which shows at the 28 million level, can actually be
13 funded at the 31 million level because there is a million
14 dollar emergency reserve required by SB 876 to be set
15 aside in the budget each year. And that million dollars
16 if it's not used will go back into the fund and not be
17 touched. So over the next three years it's quite likely
18 we'll have sufficient money to make up the difference in
19 the revenue and the expenditure authority. But the Board
20 may have to submit a budget change proposal in the 2007-8
21 year to decrease down to the new revenue level, roughly
22 \$24 million. So that's just so you understand where we're
23 going with the monies.

24 --o0o--

25 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

1 One of the things that we've had to fold into
2 this plan that was not in the original plan was the new
3 Rubberized Asphalt Concrete Grant Program set up by Senate
4 Bill 1346 (Kuehl). That is a grant program to local
5 governments to subsidize their RAC paving projects. The
6 funding level in the statute is set at \$2.50 per ton for
7 RAC projects that use a minimum of 20 pounds or more crumb
8 rubber per ton of asphalt laid.

9 A project size is set between a minimum of 2,500
10 tons 20,000 tons of asphalt. That means the maximum grant
11 award at the \$2.50 per ton level is \$50,000.

12 Just to give you a sense of how much of an
13 incentive this is, typical conventional asphalt costs are
14 somewhere around the \$50, \$60 a ton, while rubberized
15 asphalt costs can range from \$35 to \$90 a ton. So that
16 \$2.50 a ton is just a little bit of icing on the cake.
17 It's not really going to pay for a full paving project.

18 --o0o--

19 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

20 Okay. To get to the baseline that we've had to
21 add to the document is Appendix C. We thought we'd go
22 over some of the tire program accomplishments and how we
23 got there.

24 In 2001, the last year for which we have our data
25 on tires generated, diverted, and disposed, roughly 33

1 million tires were generated in California and another
2 couple million were imported. You can see we recycled
3 over 14 million tires. Energy recovery, about 5 million.
4 The total number of tires diverted was about 24.9 million
5 tires out of the 33.3 million that were generated. That
6 gives us a recycling rate, a diversion rate of almost 75
7 percent, which I think is about the highest for any
8 component of the Board's waste stream.

9 --o0o--

10 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

11 We have accomplished that over these last years
12 by funding these different activities. In the first ten
13 years or so of the project, we provided over \$10 million
14 for mats and surfacing, almost \$7 million for various
15 rubberized asphalt concrete activities, \$2 1/2 million for
16 civil engineering, a little over a million dollars for
17 energy recovery, and roughly three quarters of a million
18 for source reduction.

19 In this last year the mat surfacing was funded at
20 4.3 million, rubberized asphalt concrete at 500,000, civil
21 engineering at 1.3 million, energy recovery at just under
22 a million, and source reduction at about \$150,000 dollars.

23 --o0o--

24 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

25 The actual baseline that we have proposed to set

1 for the performance measures, in the enforcement program
2 over 32 sites have been closed in the year 2001, 2002. We
3 had issued at that time 8 enforcement grants. And I think
4 you saw in the earlier item how many -- I think it's 24
5 grants for this year. It's a huge jump. A huge jump in
6 workload too.

7 We conducted 245 inspections that resulted in 109
8 letters of violations being issued, 22 cleanup and
9 abatement orders, and 10 administrative complaints which
10 go to the administrative law court.

11 In the remediation side of the program, the
12 Westley cleanup was completed. We issued 9 clean-up
13 grants. And you've just acted on this year's award of
14 clean-up grants. We issued 22 amnesty day grants. And
15 there were 4 sites referred from the enforcement program
16 to the remediation to be cleaned up. And three of them
17 were actually cleaned by the owner once we got to that
18 point.

19 --oOo--

20 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

21 In the Research Program the Office of
22 Environmental Health Hazard Assessment completed its
23 combustion report. And that was on the health effects of
24 emissions from the tire pile fires. That was a
25 requirement of SB 876. And it was done under contract to

1 the Board.

2 We have -- very close to finishing up the
3 Recycled Content in New Tires Contract. We have had a
4 series of civil engineering projects done. The lifespan
5 of tires, how one can expand or extend the lifespan of
6 tires is almost completed. And we have done research on
7 the recycling of the byproducts from crumb rubber
8 operations. Roughly 50 percent of the weight of the tire
9 is not recycled into crumb. It is indeed this steel and
10 fiber, and those materials mostly are being disposed. So
11 this contract is looking at possible ways of recycling
12 that material.

13 In the market development side -- this slide's a
14 little old. The public awareness survey was due in April.
15 As you heard, the contractor presented its preliminary
16 results to the Special Waste Committee just this month and
17 is coming back with the final in April. We've been
18 tracking the number of recycling, you know, and diversion
19 methods for tires, which we will be coming out with the
20 2002 data very shortly. And we have had over only about 8
21 million tires out of the 33 million disposed.

22 The manifest program. We have developed the
23 manifest form itself. We've contacted nearly 12,000
24 generators. We are sending manifests at this time to over
25 8,000 individuals. They are going to be offered training

1 on how to use these new manifests, both in English and
2 Spanish. And that's going to be started in June and
3 carried out for the next couple of months.

4 --o0o--

5 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

6 So the funding for Fiscal Year 2001-2002 was
7 about \$30 million. And we have gotten over \$25 million
8 worth of projects out on the street. And I will say it
9 was with a very limited staff resources. With the current
10 hiring freezes and restrictions on staffing, it has been
11 amazing what the staff have gotten out the door.

12 --o0o--

13 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

14 So that is the end of this presentation on the
15 lead end. What we've got now is the document, I think
16 you've all received. There are two versions of the
17 document. One is in strike-out and underline and one is a
18 clean copy. I think it's easiest for us to work through
19 the clean copy.

20 What I'm just going to do is ask if there are any
21 specific areas the Board would like to discuss. What
22 we've tried to do on the clean copy is provide gray
23 shading for areas where there may be newer revisions that
24 have not been as thoroughly discussed by all the members.
25 So we could go through and look at those specifically, and

1 then get to the actual budget charts. We have interactive
2 tables, as we did for the reallocation item, where if
3 there are changes proposed on any of the budget items, we
4 can work through the dollar amounts there.

5 BOARD MEMBER JONES: Madam Chair?

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: Can I just ask a quick
8 question?

9 These were on my desk the other day, I think
10 Monday. Were these provided by staff or by who?

11 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

12 Yes. Those are some proposed changes. They're a
13 combination of staff corrections and proposals from Board
14 members for some additions to the plan.

15 So I was going to cover those in those sections
16 of the plan.

17 BOARD MEMBER JONES: All right. I just didn't
18 know who it came from. I mean stuff ends up unidentified
19 all the time.

20 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

21 Okay. Well, then let's just sort of quickly go
22 through the first part of the report just to let you know
23 the setup.

24 There is an executive summary, and it --

25 VICE CHAIRPERSON MEDINA: Excuse me.

1 Before we go through the report, yeah, I just
2 wanted to make some preface remarks.

3 Again, in regard to the five-year tire plan I
4 just wanted to thank the current Committee members, Board
5 Member Jones, Board Member Paparian, and Board Member Carl
6 Washington, and also the previous Committee members,
7 because I know that a lot of hours went into preparing
8 this report.

9 And I also want to thank all of the stakeholders
10 that gave generously of their time in regard to preparing
11 this.

12 And then I want to thank the staff from our tire
13 program, Jim Lee, in particular, and then Martha Gildart,
14 who's really devoted a lot of time to this. And, Martha,
15 we're very appreciative of this.

16 And, lastly, I want to thank my staff, Jennine
17 Harris and Amalia Fernandez, who came from the tire
18 program.

19 And having gone through the development of this
20 plan, I just want to make it clear that this is not
21 intended to be the Jose Medina Five-Year Waste Tire Plan,
22 this is not the Steve Jones Five-Year Waste Tire Plan,
23 this is not the Carl Washington or the Mike Paparian Plan.
24 And that this is a plan that after discussion will be
25 adopted by the full Board, and so it becomes the

1 Integrated Waste Management Board's Five-Year Plan for the
2 Waste Tire Recycling Management Program.

3 And let me just say right at the top, that this
4 plan is consistent with SB 876. We have complied with SB
5 1346, the Kuehl Bill. It's in line with our strategic
6 plan, meets several of the goals and objectives of our
7 strategic plan, and that this plan is good for the
8 environment.

9 And so having said that, Madam Chair, I'd like to
10 move forward with the discussion.

11 In regard to the clean copy, the first change
12 that I would make is on page I, the listing of the Board
13 members. I would update that listing of the Board
14 members.

15 CHAIRPERSON MOULTON-PATTERSON: What page did you
16 say?

17 VICE CHAIRPERSON MEDINA: That's in the back of
18 the front page.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. Thanks.

20 BOARD MEMBER JONES: So that --

21 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART: I
22 think the version I have has --

23 BOARD MEMBER JONES: -- I can advise our Chair
24 and Vice Chair?

25 VICE CHAIRPERSON MEDINA: Exactly.

1 BOARD MEMBER JONES: Okay. Thank you.

2 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

3 Okay. Any other specific additions or changes?

4 We'll just then go through the report. I'll try
5 and move fairly quickly. Then --

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: Madam Chair?

8 CHAIRPERSON MOULTON-PATTERSON: Yes.

9 BOARD MEMBER JONES: I mean if there aren't any
10 additions or -- do we have speakers?

11 CHAIRPERSON MOULTON-PATTERSON: We have one
12 speaker.

13 BOARD MEMBER JONES: Okay.

14 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

15 Well, I was going to just briefly touch on the
16 additions that were handed out in the segments of the
17 plan, if that -- and then we could go to the speakers?

18 CHAIRPERSON MOULTON-PATTERSON: Okay.

19 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

20 All right. The first change -- I had it just a
21 second ago.

22 On page 13 of the report there is a suggested
23 change to drop the sentence in the middle of the paragraph
24 number 1, "Enhanced Enforcement." Drop "Additional legal
25 support has been provided from split-funded positions."

1 Those positions are actually covered in the administration
2 funding, and did not need to be described in the funding
3 for the enhanced enforcement program here.

4 BOARD MEMBER JONES: That's fine.

5 Madam Chair, That'd be okay with me.

6 CHAIRPERSON MOULTON-PATTERSON: Yes, fine.

7 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

8 The next change then is on page 40. And this is
9 an attempt to fold into the plan the new approach on
10 public service announcements and, indeed, incorporate the
11 idea of social marketing. So the number 2 on page 40, it
12 says, "Public Services Announcement," would read -- as the
13 new document lays out, it would call it a "Media Campaign
14 Social Marketing Effort." And that would tie in the
15 survey done by Chico to an outreach program that would be
16 linked perhaps with the used oil program's social
17 marketing efforts, and the funding would remain the same
18 as in the current draft of the plan.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. I'm
20 assuming that if Board members have an objection as you go
21 through these changes, they'll let me know.

22 Thank you.

23 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

24 Okay. Then the next change is on page 43.

25 And that is in the Recycling Market Product --

1 Recycling Market Development Zone. The proposed funding
2 there would actually be dropped from the 1.6 million in
3 the first fiscal year to 1.5 million. And that additional
4 hundred thousand dollars then would be put into a new
5 effort for product stewardship, which would be a new
6 number 14. And that would require working with the
7 University of Massachusetts Product Stewardship Institute
8 at a hundred thousand dollars.

9 We're also proposing a slight revision to Item 8
10 on page 43, which is the state agency purchases and
11 development. And, that is, the Department of General
12 Services would be included in that effort to encourage the
13 sustained purchase of products made from California waste
14 tires.

15 BOARD MEMBER JONES: Madam Chair?

16 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

17 Any questions?

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: So there's a deviation from
20 the funding that we've already put in.

21 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

22 Correct.

23 BOARD MEMBER JONES: And it wasn't addressed when
24 we were doing the reallocation funds? I mean we put
25 \$20,000 towards sustainability. Why couldn't we look to a

1 reallocation the following year? Or -- I mean I'm not
2 getting this.

3 DEPUTY DIRECTOR LEE: Mr. Jones, this is one of
4 the staff's proposed modifications to the proposal
5 originally put forth by the Board Chair. It was, you
6 know, basically a kind of a two-phased program. It was
7 a -- I think staff provided a handout on that and
8 distributed it to Board members. But basically staff
9 envisioned to get a two-phase effort, with an initial
10 Phase 1 at 20,000 funded out of the reallocation. And
11 then with the additional hundred thousand to become as
12 part of the '03-'04 allocations.

13 CHAIRPERSON MOULTON-PATTERSON: Continue please.

14 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

15 Any question or comment? I mean we can put up
16 the interactive tables in a short bit if we're going to be
17 going through some of these dollar amounts. But at the
18 moment we're just going through the text revisions.

19 So that would lead then to the page 47 table
20 being revised to show 1.5 million for the RMDZ loan in the
21 first year, and we would be adding the hundred thousand
22 for the product stewardship in that column -- that first
23 column.

24 Those are the major proposed changes to the
25 document, other than any of the gray shaded areas. If any

1 of the Board members have questions --

2 CHAIRPERSON MOULTON-PATTERSON: I see no lights.

3 BOARD MEMBER JONES: Madam Chair?

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: With these changes -- first,
6 I want to thank -- if you'll indulge me for a second --

7 CHAIRPERSON MOULTON-PATTERSON: Certainly.

8 BOARD MEMBER JONES: The Chair of Special
9 Waste -- I actually got to play with this both as Chair
10 and then as member. And so I appreciate the effort that
11 Mr. Medina put forward in the leadership. And I
12 appreciate the debate with Mr. Paparian, Mr. Medina, and
13 Mr. Washington as we went through this process.

14 I think that these changes make sense. I don't
15 have any problem with those additions. So I'll move
16 adoption of Resolution 2003-275, consideration of adoption
17 of the Revised Five-Year Plan for the Waste Tire Recycling
18 Management Program, second edition, covering years 2003-4
19 through 2007-8, with those revisions.

20 VICE CHAIRPERSON MEDINA: Second.

21 CHAIRPERSON MOULTON-PATTERSON: Okay. We do have
22 one speaker. We have a motion on the floor and a second,
23 but Mark Murray would like to speak.

24 MR. MURRAY: Madam Chair, members. Mark Murray
25 with the environment group, Californians Against Waste.

1 Trying to keep track of the changes, both in
2 terms of the previous agenda item and this agenda item.
3 And maybe I want to just start off by saying that many of
4 the specific revisions that have been described both in
5 terms of the document right here on this agenda item and
6 in the reallocation we think are steps in the right
7 direction. So I don't want the balance of my comments to
8 suggest that we don't think that those were good steps.

9 However, I think that we've missed an opportunity
10 with this five-year tire plan. I think that this plan
11 represents -- specifically the budget components of this
12 plan represents really a five-year allocation instead of
13 really a vision of how we're going to in the long run
14 divert tires from --

15 CHAIRPERSON MOULTON-PATTERSON: I have a
16 question, Mr. Murray.

17 MR. MURRAY: Sure.

18 CHAIRPERSON MOULTON-PATTERSON: Since you say
19 that you do think we've made some good efforts, are you
20 going to address that in your letter that you cc'd to
21 Senator Sher, Senator Escutia? I would really appreciate
22 that, so they have the whole picture.

23 MR. MURRAY: Sure. You know, I'll make those
24 changes.

25 We're going to be opposing your budget

1 recommendations on the tire plan. We're opposing this
2 year's recommendations on tires. We'll be opposing this
3 budget recommendation in the future.

4 We think that the focus on the back-end cleanup
5 was a great priority for the last five years. But what
6 the budget allocations for the next five years lack is a
7 way of transitioning us away from the back-end cleanup and
8 towards the development of the markets that's going to
9 create a sustainable system. I mean here we're seeing a
10 reduction in the fee during this next five-year period,
11 and yet there's no plan here in terms of how we're going
12 to actually change the way that we've been spending money.
13 Instead it's we're just going to have less money to spend
14 on these back-end approaches.

15 I think that we missed an opportunity here to
16 develop a sustainable system for getting tires recycled,
17 not just diverted, used as daily cover, burned for energy,
18 but actually getting tires recycled.

19 I also think that, while again we're supportive
20 of the attention that's been given to source reduction and
21 tire longevity with some of the revisions to this budget,
22 we think that that represents a potential future for
23 reducing the waste created by tires in the future and that
24 a greater emphasis needs to be placed on those.

25 Again, I realize that that's a new technology,

1 that's a new issue area. But this a five-year plan, and
2 it seems that there should be a greater focus on source
3 reduction. So I will be making a changed letter that will
4 be going directly to the legislative budget committees
5 that will reference our opposition to the budget, but it
6 will reflect the changes that were made today and in the
7 previous budget item.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 I believe Mr. Jones had a question and Mr.
10 Paparian wanted to speak.

11 Mr. Jones.

12 BOARD MEMBER JONES: Thanks, Madam Chair.

13 When you talk about the back-end cleanup, exactly
14 what are you referring to in your comments?

15 MR. MURRAY: Madam Chair, I'm responding to -- in
16 this budget two-thirds of the money for this program for
17 the next five years is being dedicated to the remediation,
18 the enforcement, and the manifest system. I think that
19 those are important priorities to have. I appreciate the
20 emphasis that's gone on those. But I think that
21 ultimately we're not building a sustainable system. And
22 our objective here would be to create a sustainable system
23 that can carry on when the tire fee goes down to \$.75.

24 BOARD MEMBER JONES: Madam Chair, and that's what
25 my question was. I wanted to make sure I understood what

1 Mr. Murray was talking about. Because in fact that is
2 where there is a lot of the effort because that's what was
3 required in SB 876. And it was clearly required by the
4 Legislature that we do these things to the point that we
5 spend -- that we commit to spend \$6.5 million a year for
6 the first five years of this program to not only deal with
7 tire piles and the remnants of the two tire fires, but the
8 air, water, and earth that those scorched and destroyed.

9 What we did in this plan, and the reason I wanted
10 to get this clarified, was because, thanks to the Chair
11 and others on this Board -- I represented this Board in
12 those negotiations so I understand completely what the
13 message was and what we had to do as far as putting this
14 bill together. And the plan is a reflection of that bill
15 and the direction we were given. And what we did in our
16 market development money by putting money into grants was
17 a clear decision by the Board to move markets, to get in
18 place a marketplace that at some point would be
19 sustainable.

20 And we've got crumbs in the audience. We've
21 worked with CalTrans. We've worked with others to get
22 California crumb into the roadways and into products. And
23 that's what we intended to do and that's what we intend to
24 do.

25 So I just wanted to make sure I understood what

1 you were talking about, because in fact it actually is
2 what the law required and the direction we were given. So
3 I'm comfortable with that misunderstanding.

4 But the dollars -- it was very clear what this
5 Board -- when we did the original plan and this plan, was
6 to not subsidize for the sake of subsidy, but to try to
7 create a sustainable marketplace by giving money to
8 schools and local governments to be those that demanded
9 those products. And as we have seen, when you go into a
10 McDonald's or you go into any weight room in the State of
11 California, you're going to see mats and cushions made
12 with recycled -- california recycled tires hopefully, in
13 most cases. And that is a direct result of a need that
14 was created because of some tempting money that we put out
15 there. And the marketplace is starting to grow.

16 So I just wanted to make sure I understood your
17 point, because it follows the law. That I will tell you
18 because I -- I mean I negotiated it.

19 And CAW wasn't present in those negotiations, nor
20 were the Sierra Club. Because they were invited.

21 So I can understand maybe some of the
22 misunderstanding. But I wanted you to know that we
23 understood what our mission was and that's what this thing
24 reflects.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

1 Jones.

2 Thank you, Mr. Murray. Did you wish to respond?

3 MR. MURRAY: I don't know if there was a question
4 there. But, Madam Chair, I believe that the environmental
5 community made a mistake in that bill by not being
6 prescriptive in how these funds are allocated. We were
7 talked out of that in the negotiations on that bill. We
8 won't make that mistake again.

9 Thanks.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 Mr. Paparian.

12 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
13 And I'll try to be a bit briefer than I was last night.

14 Before I vote on this I want to especially thank
15 you, Madam Chair, and your advisor, Bonnie Bruce, for your
16 tremendous efforts to try to help the Board find some
17 common ground on this issue. We went through some of the
18 changes pretty quickly today. But I want you to know they
19 are very important changes to the plan.

20 As you all know, the revision of the five-year
21 plan has been extremely contentious, and in my time on the
22 Board the only issue where my interaction with Board
23 members became personal rather than issue oriented.

24 I believe the reallocation funding changes made
25 just a little while ago and some of the changes made

1 recently to the text by the staff do go a long way towards
2 addressing the three main concerns I've had about the
3 five-year plan throughout the process. They don't fully
4 address those concerns, but they go a long way towards
5 addressing those concerns.

6 And I'll be very brief with this. I'll just give
7 you some examples.

8 The concern I've raised about the inconsistency
9 with 876. I do believe there are still some issues with
10 the hierarchy. But I believe that the Chair's proposals
11 have helped address those.

12 There is an inconsistency with the explicit
13 language of 876, and that relates to the spending in the
14 Year 2006-2007. The 876 very explicitly says that we
15 shall spend \$6.5 million on cleanup in that year. The
16 plan before us that we're about to vote on calls for only
17 \$5.775 million to be spent in that year. It's an issue
18 that came up over the fall when we discussed this. But,
19 again, it's one of the inconsistencies I see with 876.

20 I still see some inconsistencies with the
21 direction of the strategic plan. Some of my efforts to
22 bring strategic plan language into the five-year plan were
23 rejected. There were some specific language related to
24 tires in the strategic plan that didn't make it into the
25 five-year plan.

1 The Board's environmental approach to other
2 material types, I think we're on a better pathway with the
3 product stewardship language and product stewardship
4 funding. But I think that could have been stronger.

5 However, even with these concerns that I still
6 have, and the previous personal attacks aside, I am going
7 to vote for the five-year plan today. While the plan
8 isn't perfect, it doesn't have all of the elements in it
9 that I would have liked to see, I believe it's closer than
10 it has been at any point in the last few months. And I
11 believe it begins the process to provide a more visionary
12 and progressive approach to tires than we've had in the
13 past.

14 Again, I'd really like to thank the Chair and her
15 advisor on this issue. I think that with the series of
16 changes they proposed, it really did make a difference for
17 me in this plan.

18 I really look forward to working with the staff
19 on implementation of this plan over the coming years. And
20 I know that we'll be able to preserve and enhance the
21 leadership position that we're staking out on waste tires
22 so that California will be and continue to be a national
23 and international leader on this issue.

24 So I will be voting for the plan today, Madam
25 Chair.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Paparian.

3 And I know Mr. Medina has on his light. But
4 before I call on Mr. Medina, I want to say that although
5 not everyone is 100 percent happy with this plan, I think
6 it's a good plan and I think it's a good plan because of
7 the diversity on this Board and because of this Board.
8 And that's why we need a board that brings differences of
9 opinion. And the opportunity to hear from the public.

10 And, again, I want to thank Mr. Medina and Mr.
11 Jones when me was Chair of the Special Waste for their
12 leadership and for everyone's contributions. Mr.
13 Washington and Mr. Paparian, you put in countless hours
14 and days on this, and I applaud you. And I think it's a
15 good plan that we can be very, very proud of.

16 Mr. Medina.

17 We do have a motion and a second.

18 VICE CHAIRPERSON MEDINA: Yes. Before we vote on
19 the motion, Madam Chair, it's not my style nor my history
20 to engage in any personal attacks -- I never have -- on
21 any board member of any board or commission that I've ever
22 sat on. And I personally have to take umbrage with
23 statements that were made here about personal attacks.
24 I'm not aware of any member of our Committee that
25 personally attacked anyone. I certainly know that Board

1 Member Washington and I did not engage in any personal
2 attacks on any other Board Member --

3 BOARD MEMBER WASHINGTON: Never.

4 VICE CHAIRPERSON MEDINA: -- during this
5 discussion.

6 I do know that there are serious differences
7 between the industry and the environmental rep, as there
8 should be on all of these issues. And so there may have
9 been some heated debate that took place.

10 There also -- I don't think there were
11 contentious meetings. I think that there was strong
12 debate in discussing all of the issues and items that go
13 towards putting together a five-year plan for waste tires.

14 The vote was 3 to 1. And so that shows you that
15 at least the majority of the Board members were in
16 agreement in regard as to what went into the five-year
17 plan.

18 In regard to the criticisms on behalf of the
19 environmental community. In a perfect world -- 100
20 percent of the text that was suggested by Mr. Paparian and
21 100 percent of every dollar that he recommended be spent
22 on certain activities, in a perfect world that would have
23 happened. But this is a committee of six people that
24 represents various interests.

25 My experience on the Board of Supervisors in San

1 Francisco was that no matter how perfect a piece of
2 legislation you thought you were introducing, by the time
3 it made it through committee and by the time it got voted
4 on, there was some slight differences. I introduced a
5 resolution in San Francisco to create the longest bike
6 path in the City of San Francisco. Someone called for an
7 environmental impact report and delayed the bike path for
8 a year. It got through, but there was some changes that
9 had to be made. It was called the civic project of the
10 year.

11 We dedicated over six hours to listening to all
12 of the text revisions that Mr. Paparian proposed. We
13 adopted over two-thirds of those. So I think that's being
14 responsive.

15 In regard to markets, I could call on Mr. Patty
16 Wohl now and she could tell you everything that we have
17 done in regard to markets for waste tires. And I think
18 that is significant and probably way beyond what any other
19 state has done in regard to -- whether it's the trade
20 fair, the increased use of RAC, there's a lot of other
21 areas where California really sets the standard and really
22 is the model not only for California, but I know that
23 we're certainly a model for Mexico as well.

24 So I just wanted to again thank the Committee
25 members, Madam Chair. But, again, I don't want any

1 aspersions to fall on any of the members of the Committee
2 that I happen to Chair. And I also want to thank you for
3 your leadership and your contributions to the five-year
4 tire plan.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. And now,
6 hopefully, we can just all get along.

7 Please vote.

8 DEPUTY DIRECTOR LEE: Madam Chair.

9 CHAIRPERSON MOULTON-PATTERSON: It was a motion
10 by Jones, seconded by Medina to approve Resolution
11 2003-275.

12 Did you have a question, Mr. Lee.

13 DEPUTY DIRECTOR LEE: Just one clarification
14 to -- it was with regards to some editorial format changes
15 with regards to the strategic plan objectives and how
16 they're represented in the plan on page 49 and 50. They
17 were part of the staff handout that we gave all of the
18 Board members before the meeting. So I just want to bring
19 that to your attention.

20 CHAIRPERSON MOULTON-PATTERSON: Excuse me. Are
21 you asking -- did you have a question?

22 I don't understand.

23 DEPUTY DIRECTOR LEE: When Martha was reading the
24 various changes that staff was proposing to the language,
25 the text of the five-year plan, she inadvertently

1 neglected to bring to your attention there were some
2 changes in how -- in the format for how we were presenting
3 some of the strategic plan objectives on page 49 and 50.
4 And so I just wanted to make sure that was in the record.

5 CHAIRPERSON MOULTON-PATTERSON: Oh, thank you,
6 Mr. Lee. I didn't understand.

7 Okay. Please call the roll.

8 SECRETARY WADDELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 SECRETARY WADDELL: Medina?

11 VICE CHAIRPERSON MEDINA: Aye.

12 SECRETARY WADDELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 SECRETARY WADDELL: Peace?

15 BOARD MEMBER PEACE: Aye.

16 SECRETARY WADDELL: Washington?

17 BOARD MEMBER WASHINGTON: Aye.

18 SECRETARY WADDELL: Moulton-Patterson?

19 CHAIRPERSON MOULTON-PATTERSON: Aye.

20 Okay. That brings us to our Waste Prevention and
21 Market Development.

22 Mr. Medina has already given his report.

23 EXECUTIVE DIRECTOR LEARY: Madam Chair?

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Leary.

25 EXECUTIVE DIRECTOR LEARY: I'm sorry to

1 interrupt. But before she leaves the room, I need to make
2 mention that this is the last Board meeting for Martha
3 Gildart. And although she's way too young to retire, I
4 think she's decided that she wants to try something
5 different in her life. And I thought it would be
6 important that I recognize the huge contribution Martha
7 has made, not only to the Board's leadership in the tire
8 program, but in a number of areas that preceded her
9 involvement in the tire program. She's a long-standing
10 employee, has brought technical and managerial excellence
11 to this Board. And I just appreciate the opportunity to
12 say that.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

16 I think Mr. Jones said something the other day,
17 and I want to echo some of his comments. I want to thank
18 you, Martha, for your work on this issue and on the Board.
19 I know we didn't always agree on the issues, but I've
20 always really admired your willingness to really fight for
21 what you believe in. I think that's an important quality
22 and trait and something that a lot of us forget to do at
23 times, to really fight for what we believe in.

24 Your depth of knowledge, your history on this
25 issue, your institutional memory, I think you're going to

1 be missed by everybody. So I wish you well in your coming
2 endeavors.

3 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

4 Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: Very well said.

6 And we appreciate all you've done, Martha, and wish you
7 the very best in your future endeavors. And please keep
8 in touch.

9 We'll probably be calling you for that
10 institutional memory.

11 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:

12 Just 14 blocks away.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

14 (Applause.)

15 DEPUTY DIRECTOR LEE: Madam Chair, may I make
16 remarks too with regards to -- remarks on behalf of her
17 colleagues in the Special Waste Division, to recognize, as
18 I think several of the Board members have, you know, her
19 basically unequalled contributions to the tire program
20 these many years.

21 And speaking for myself personally, you know, I
22 want to thank her for the acknowledge -- for sharing with
23 me, you know, her knowledge, insight, and experience.
24 And, you know, basically buying me some time to come to
25 grips with the challenges and responsibilities for

1 managing the tire program. So personally I do want to
2 definitely extend my thank you's.

3 So, again, Martha, on behalf of all of your
4 colleagues, thank you so much, and good luck.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 Okay. Now on to the rest of our agenda.

7 Waste Prevention and Market Development. As I
8 said, Mr. Medina has given his report. So we have two
9 items.

10 Ms. Wohl, Number 17.

11 DEPUTY DIRECTOR WOHL: Good afternoon, Madam
12 Chair. Patty Wohl, Waste Prevention and Market
13 Development Division.

14 As you mentioned, we have one loan item. To date
15 the Board has approved eight loans totaling \$6.4 million
16 and to two loans from the tire funds for \$1.7 million. We
17 will consider one loan today for \$2 million. If approved,
18 there remains approximately \$1.5 million in the RMDZ Fund.

19 With that, I'd like to move to Agenda Item 17,
20 consideration of the Recycling Market Development
21 Revolving Loan Program application for Plastic Energy -
22 Hanford, LLC.

23 And Jim LaTanner will present.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina, did
25 you have a question or a comment?

1 VICE CHAIRPERSON MEDINA: I had no questions or
2 comment. Unless a detailed presentation had to be made, I
3 was prepared to move this item.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Very, very
5 briefly, I believe. And also we do have one speaker, Mr.
6 Medina.

7 Oh, did you pass, Mr. Larson?

8 Oh, no. You're waving that you're the speaker.
9 Okay, yeah.

10 Okay. Mr. LaTanner.

11 MR. LaTANNER: Okay. Jim LaTanner, Supervisor
12 for the Recycling Market Development Revolving Loan
13 Program, Agenda Item 17.

14 In summary, this items presents for consideration
15 a loan to Plastic Energy - Hanford, LLC, requesting two
16 million to purchase equipment for their new recycling
17 project.

18 The project's located in Hanford, California,
19 within the Greater South San Joaquin Valley Recycling
20 Market Development Zone.

21 Staff recommends that the Board approve Option 1
22 and adopt Resolution 2003-293 to approve the loan in the
23 amount of two million.

24 CHAIRPERSON MOULTON-PATTERSON: I see Mr.
25 Larson's only here to answer questions.

1 So, Mr. Medina, would you make your motion
2 please. I see no other lights.

3 VICE CHAIRPERSON MEDINA: Thank you, Madam Chair.
4 I'd like to move Resolution 2003-293, consideration of the
5 Recycling Market Development Revolving Loan Program
6 application for Plastic Energy - Hanford, LLC.

7 BOARD MEMBER WASHINGTON: Second.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
9 motion by Mr. Medina, seconded by Mr. Washington.
10 Without objection, substitute the previous roll
11 call.

12 VICE CHAIRPERSON MEDINA: And that's in the
13 amount of \$2 million.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. That
15 brings us to the next item.

16 DEPUTY DIRECTOR WOHL: It's actually Pat's item,
17 I believe.

18 CHAIRPERSON MOULTON-PATTERSON: Oh, yeah, it is
19 Pat's.

20 DEPUTY DIRECTOR SCHIAVO: Okay. Item Number 26
21 is consideration of the grant awards for the Unified
22 Education Strategy Grant Program for Cycle One Fiscal Year
23 2002-2003 and Fiscal Year 2003-2004 and for Cycle Two
24 Fiscal Year 2002-2003 and Fiscal Year 2003-2004.

25 And Staff recommends the Board adopt Option

1 Number 1, which is approval of the grant awards which has
2 been heard in two committees.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. I will
4 move Resolution 2003-303.

5 VICE CHAIRPERSON MEDINA: Second.

6 CHAIRPERSON MOULTON-PATTERSON: And we have a
7 second by Mr. Medina.

8 Without objection, please substitute the previous
9 roll call.

10 We have one item left, which is a discussion
11 item. It's the discussion of construction and demolition
12 regulations as related to other tiered permitting
13 regulations.

14 And I'm going to be calling on Ms. Peace first
15 and then we'll call on Mr. Levenson.

16 Ms. Peace.

17 BOARD MEMBER PEACE: Okay. Yes, last month I
18 asked that we look at the extra conditions included in the
19 C&D regulation package to see how they compare with other
20 regulatory packages. I want to make sure that we are
21 consistent with how we rate potential threats to the
22 environment based on the different waste resource
23 combinations and that facilities that handle those
24 materials have equal and appropriate oversight.

25 I asked staff to put together a comparison chart,

1 that we all should have gotten. And I just hoped that
2 this would initiate some discussion that's -- you know, we
3 can discuss some of these things among ourselves or we
4 could just have staff come back with a thorough analysis
5 and some recommendations on whether these conditions
6 should be applied across the board or if some of them
7 should be deleted.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
9 Peace, for bringing this up.

10 And, Mr. Levenson, you want to go over the chart.
11 And this might be a two Board meeting item. But I think
12 it's good we get the discussion started.

13 DEPUTY DIRECTOR LEVENSON: Howard Levenson,
14 Permitting and Enforcement.

15 And thank you, Ms. Peace. This was item was
16 prepared in response to the request that you made
17 earlier -- or last month in deliberating the C&D regs.
18 And actually Michael Bledsoe of the Legal Office prepared
19 the chart that you have before you, and in cooperation and
20 consultation with several folks in the Permitting and
21 Enforcement Division. So Michael is going to go through
22 this. And we have other staff on hand to answer any
23 questions you might have.

24 And I'll just turn it straight over to Michael.

25 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

1 STAFF COUNSEL BLEDSOE: Thank you, Howard.

2 Good afternoon, Madam Chair, members of the
3 Board. Michael Bledsoe from the Legal Office.

4 This chart before you is an effort to try to
5 respond to Ms. Peace's question of taking a look at those
6 new policy items that the Board adopted when it adopted
7 the C&D transfer processing regulations last month.

8 Those are list in the left-hand column.

9 And compare how those policy issues are handled
10 in the construction, demolition, transfer processing
11 regulations; the MSW transfer processing operations and
12 facility; the proposed construction and demolition
13 disposal operations and facilities; and MSW landfills.

14 All of those types of facilities receive -- or
15 may receive construction and demolition debris.

16 So, the chart is simply -- lists first what type
17 of permit is required for the activity, and what the tier
18 threshold is. And that's really just for your information
19 so you can kind of see how these all fit together.

20 And then we simply go down through those list of
21 policy items and across the board apply them to the
22 regulatory tiers for the other types of facilities.

23 There are a lot of foot notes and explanations
24 because it's not really that easy to compare these four
25 different sets of regulations, four different types of

1 facilities intended to handled different types of waste
2 primarily. So there's a lot of effort to explain, where
3 we have an apples and oranges situation, to try to bring
4 that out.

5 I'm happy to go through the chart in a bit of
6 detail, if you'd like, or simply put it out there. I mean
7 what it shows overall is that in large part the new policy
8 items adopted with the CDI transfer processing regulations
9 are not -- have not been included in other regulatory
10 packages. And in some cases they simply don't apply. In
11 many cases it wouldn't make any sense to do that.

12 But I think the chart shows that we imposed-- or
13 the Board imposed additional requirements for construction
14 and demolition debris than it has in the past imposed on
15 MSW transfer processing, and to the extent it makes any
16 sense, MSW landfills.

17 Then with regard to the third column, on the
18 proposed construction and demolition debris disposal
19 operations and facilities, those regulations were drafted
20 and sent out for public review before the Board adopted
21 the transfer processing regulations. So they have not
22 been modified to reflect the Board's new directions here.

23 And I would imagine that staff in its next
24 presentation to you on the CDI disposal regulations would
25 include those new regulatory requirements that are

1 applicable in the disposal -- in CDI disposal regulations.

2 And that's a summary of the chart. I hope
3 it's -- it's as self-explanatory as we could make it. It
4 is a complicated chart. And as I say, I'm happy to go
5 through it in more detail, but that's what it shows.

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Bledsoe, I
7 appreciate -- I know you didn't have a lot of time to do
8 this. And it is very complicated. And, you know, in some
9 cases we are comparing apples and oranges. But I do want
10 to thank Ms. Peace for her leadership on this. She's only
11 been on the Board a few months, and yet she really hit the
12 nail on the head. One of the things we -- at least I
13 really seek to do, and I think every member of our Board
14 does, is to be fair. And I think that's really important.

15 There's so much information here though, you
16 know, I do want to take a look at it and have -- you know,
17 have my advisors look at it, and I think other Board
18 members would want to also. But it really, really
19 addresses something that's very important to me. And I
20 just think it's very important. And, you know, there's
21 some things that goes to the LEAs. You know, some times
22 you have LEAs that really enforce things, that are on top
23 of it. Others, they're not as good, you know. So there's
24 a lot here.

25 And I know I have other lights. Did you want to

1 speak yet, Ms. Peace?

2 Okay. We have Mr. Jones. And I thought I had
3 other one, but -- oh, Mr. Paparian.

4 BOARD MEMBER JONES: Thanks, Madam Chair. And I
5 appreciate this list.

6 I do think though that, for the sake of clarity,
7 especially if we're going to have another meeting on this,
8 is that -- each one of these regulations is driven by
9 risk. And it's not addressed. It should be the very
10 first thing on each one of these columns.

11 When you look at an MSW transfer station, the
12 risk is the garbage and the vectors and the issues that
13 come from stored garbage. Our state minimum standards
14 require that that waste be removed in two days. And that
15 if it's a remote transfer station or a garbage can or
16 something like that, that it be removed in seven days
17 because of fly gestation. So the state minimum standards
18 address the risk in a transfer station because it requires
19 removal.

20 The risk at a C&D site is the accumulation of
21 wood and the accumulation of wood chips. Is that risk the
22 same as the accumulation of concrete, asphalt, and tile?
23 No. That's why when we did these regs, they were two
24 different standards. The risk with the concrete is the
25 storage and somebody walking away from it. But the risk

1 of the piles of both processed and unprocessed wood
2 identify the risk.

3 The same with any other thing that we deal with
4 under regs, we're driven by risk. So I think not having
5 that as the very first item in this, to identify what the
6 risk is and identify what state minimum standards does to
7 mitigate -- to ensure proper environmental handling of
8 that, is an important element that needs to be included in
9 this, because I think it makes the picture much clearer.
10 And I only bring that up because I appreciated when you
11 said it, because it looks like it could be an overkill, it
12 could this, it could be that. It's really in any reg
13 package addressing what the risk is, identifying the risk,
14 and then put the regs in a position to manage the risk.
15 And that was what was lacking, because of enforcement and
16 the treatment of piles and how much was too much and how
17 much wasn't enough and, you know, that whole gamut that we
18 played.

19 And then I just -- I would say I think that you
20 did a good job of asterisking, you know. We required
21 IPP's in the C&D regs because there wasn't anything in the
22 state minimum standards that would have allowed us to do
23 that. But any permitted facility that turns in an RDSI,
24 and RFI, or a JTD has also got to have an IPP available
25 either as an attachment to the permit or that -- and I

1 think you did a good job by saying that. So there are
2 some things that the answer is no, but it's not really no.
3 I mean lawyerese would tell you, "Is it exactly like
4 this?" "No, it's not exactly like this, but it's handled
5 in this method." And I appreciate that you cleared a lot
6 of those things up.

7 But I would say that, when we talked about "three
8 strikes and you're out" on the registration tier, every
9 MSW permit is a "three strikes and you're out," or it
10 should be. It's not in law that three strikes and you
11 move up.

12 But when you continually have violations of
13 exceeding your permitted tonnage, then don't you have to
14 get a permit that reflects that higher tonnage or a
15 commitment to go back to the lower tonnage?

16 STAFF COUNSEL BLEDSOE: Well, that's as far as I
17 know not been historically the case. The Board could
18 adopt such a policy, I believe, if it wanted to. Not a
19 policy -- excuse me -- a regulation --

20 BOARD MEMBER JONES: I'm not saying it's a
21 regulation. What do we do when we do a violation at a
22 transfer station?

23 STAFF COUNSEL BLEDSOE: I defer to -- you know,
24 to Mark deBie or to Howard. But certainly there's no
25 requirement that three violations of a tonnage standard

1 automatically kicks you into the full permit.

2 BOARD MEMBER JONES: I understand that. That's
3 what I'm saying. It's not the same. But when you have
4 continually exceeded your permitting capacity -- or
5 permitted tonnage, there are remedies within the current
6 state minimum standards for an MSW transfer station,
7 right?

8 STAFF COUNSEL BLEDSOE: There are remedies for
9 all of these facilities, yes.

10 BOARD MEMBER JONES: Okay. That's all.

11 I mean we didn't have that opportunity, Madam
12 Chair. And that's -- I just wanted to get that clear and
13 have the risk issue dealt with.

14 Thank you.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 Mr. Paparian.

17 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

18 I think this is a real excellent start at
19 comparing some of our regulations, to assure that we
20 consistently apply them. You know, the -- some of the
21 things in here like, you know, OSHA training and public
22 hearing requirements and some of the -- random inspections
23 and so forth, I think we ought to be consistent in how we
24 apply those across the Board.

25 And I also wanted to mention that we got a second

1 chart involving tire facilities. And I appreciate this
2 chart being developed.

3 I know that tire facility regulation derives from
4 different law than the solid waste facility regulations.
5 But many of the concepts are comparable. For example, the
6 OSHA training, the public hearing requirement, the
7 surprise random inspections and the frequency of
8 inspections.

9 And I'll just note that -- you know, if you look
10 at a tire facility or you look at a C&D facility, I think
11 the risk to the public, the risk to the environment, it
12 may be a little bit more or a little bit less, but there
13 is some comparability there. If a tire facility catches
14 on fire, as some have, it's a big problem, just like it's
15 a big problem if a C&D facility catches on fire.

16 And that leads me to wondering, and something I
17 want to pursue a little bit, is this frequency of
18 inspection issue. For the C&D facilities, we have monthly
19 inspections. For tire facilities of comparable size to
20 the C&D facilities that have monthly inspections, we have
21 annual inspections. And I think that there's an
22 inconsistency there that we ought to address as we move
23 this forward.

24 And, again, I'd like to also thank Mrs. Peace for
25 her pursuit of this. And I'm looking forward to working

1 with her to see that any appropriate changes are made.

2 DEPUTY DIRECTOR LEVENSON: Madam Chair, if I
3 could just add a couple of comments.

4 Howard Levenson, P&E.

5 There are a couple of opportunities already
6 upcoming to discuss this further. One would be in the
7 context of the C&D disposal regs, where we can bring some
8 analysis of the applicability of some of these provisions
9 to those regs, and the Board can get comment and make its
10 decision.

11 Also, you've asked to do some follow-up work on
12 the implementation of the first phase of the C&D regs.
13 And that would take some time until the regs are -- the
14 training's gone out and we get some information back from
15 LEAs and field inspections.

16 Finally, we have -- some of these issues came up
17 in the May 8th workshop last week. So we are sitting down
18 internally to try and look at how to bring that back to
19 the Board for further discussion and guidance.

20 So I think there are going to be a number of
21 different venues that we can continue to pursue this and
22 along with anything else you wish us to do.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
24 Levenson.

25 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

1 BOARD MEMBER PEACE: Yes. Thank you very much
2 for doing this.

3 You know, I'd like to hear some staff
4 recommendations, you know, analyze this and say where
5 these make sense, where they don't make sense, why they're
6 over here and not over here. That would be very helpful
7 to me and I think to the rest of the Board.

8 CHAIRPERSON MOULTON-PATTERSON: Definitely.
9 So you'll be --

10 DEPUTY DIRECTOR LEVENSON: Just for
11 clarification. Would you like that in a broad context in
12 terms of a potential applicability across different
13 regulatory packages or perhaps as a first crack within the
14 CD disposal regulations?

15 BOARD MEMBER PEACE: Well, I thought we could
16 analyze all these and see where they make sense and don't
17 make sense. So when we're working with the disposal
18 regulations, that we'll have them all in place and know
19 what we're doing, and it'll be easier to move those along.

20 CHAIRPERSON MOULTON-PATTERSON: Could you have it
21 for us by the July meeting?

22 DEPUTY DIRECTOR LEVENSON: I think July is
23 feasible, yes. June would be difficult.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Yeah, June
25 would be pushing it, I know.

1 DEPUTY DIRECTOR LEVENSON: July is very good.

2 CHAIRPERSON MOULTON-PATTERSON: If you could come
3 back to us, because we don't want this to fall by the way
4 side.

5 And thank you, Mr. Bledsoe, for your good work.
6 We appreciate it.

7 BOARD MEMBER PEACE: Thank you.

8 STAFF COUNSEL BLEDSOE: Thank you.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. With that,
10 are there any public comments?

11 Hearing none.

12 The meeting -- we have a closed session, on which
13 we'll be discussing personnel items.

14 What time does the Board wish to -- can you be
15 back by 1:30, or is that pushing it? 1:45?

16 Two o'clock or 1:45? I'll go with my -- I'm
17 tired. Well, I'll be very easily led right now. You guys
18 call it. What do you want?

19 Okay. Mr. Medina can't be back till 2, so we'll
20 make it 2.

21 And we'll have a closed session at 2 and then
22 come out and adjourn the meeting.

23 (Thereupon the California Integrated Waste
24 Management Board meeting adjourned at
25 12:25 p.m.)

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 27th day of May, 2003.

15
16
17
18
19
20
21
22
23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 10063